

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 4, 1908.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost.

The Government Promissory Notes Nos. 063951 and 063952 of the $3\frac{1}{2}$ per cent. Loan of 1900-01 for Rupees one thousand each originally standing in the name of the Bank of Bombay and last blank endorsed by Abdulla Hassan Khan to Abdul Cader, the proprietor, by whom they were never endorsed to any other person, having been lost, notice is hereby given that payment of the above Notes and the interest thereon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the above mentioned securities.

Name of Advertiser—ABDUL CADER.
Residence—Manager, Bombay Washing Co.,
Military Square, Fort Bombay.

ESTATE T. B. TRACY Decd.

PURSUANT TO SECTION 42, ACT 28 OF 1866.

Notice is hereby given that all persons having claims against the late Thomas Burrowes Tracy, who died on 14th September 1907, at White Cottage, Shanklin, Isle of Wight, Letters of Administration to whose Estate have been granted to Joseph Carstairs Roberts Johnston of Messrs. Grindlay & Co., Calcutta, are required to send in the same on or before 7th February next to the said Messrs. Grindlay & Co., Calcutta, after which date the said Administrator will proceed to administer the assets having regard only to the claims of which he shall then have received notice, and no claims sent in subsequently will be recognized, and all persons indebted to or holding any securities or property belonging to the said Estate are also hereby requested to pay without delay the amount owing by them, or deliver the said securities or property to the said Administrator whose receipt alone is valid for the same.

J. C. R. JOHNSTON,
Administrator to Estate,
T. B. Tracy decd.

CALCUTTA, 23rd December 1907.



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CALCUTTA, SATURDAY, JANUARY 11, 1908.

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PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost.

The Government Promissory Notes Nos. 063951 and 063952 of the 3½ per cent. Loan of 1900-01 for Rupees one thousand each originally standing in the name of the Bank of Bombay and last blank endorsed by Abdulla Hassan Khan to Abdul Cader, the proprietor, by whom they were never endorsed to any other person, having been lost, notice is hereby given that payment of the above Notes and the interest thereon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the above mentioned securities.

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J. C. R. JOHNSTON,
Administrator to Estate,
T. B. Tracy decd.

CALCUTTA, 23rd December 1907.

UNCOVENANTED SERVICE FAMILY PENSION FUND. .**NOTICE.**

The Seventieth Annual General Meeting of Subscribers to the above Fund will be held in the Town Hall on Saturday, the 25th January 1908, at 3 P.M., (1) to receive the report of the Directors; (2) to lay before the Meeting the Books of the Fund together with an abstract statement of the accounts, and a list of subscribers and incumbents, in accordance with Fund Rule 58; (3) to fill by election, under Rule 5, the three vacancies caused by the retirement by rotation of three Directors; and (4) to elect Auditors for the ensuing year, as required by Rule 8.

By order of Directors,

RIVERS HOWE,
Secretary.

CALCUTTA;

The 23rd December 1907.

Notice.

I, Kadarbhoy Vallibhoy, carried on the business under the name and style of H. J. Meyers & Co., have sold the business under the deed of assignment on the 12th December 1907.

K. W.



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PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 18, 1908.

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PART III.

Advertisements and Notices by Private Individuals and Corporations.

ESTATE T. B. TRACY Decd.

PURSUANT TO SECTION 42, ACT 28 OF 1866.

Notice is hereby given that all persons having claims against the late Thomas Burrowes Tracy, who died on 14th September 1907, at White Cottage, Shanklin, Isle of Wight, Letters of Administration to whose Estate have been granted to Joseph Carstairs Roberts Johnston of Messrs. Grindlay & Co., Calcutta, are required to send in the same on or before 7th February next to the said Messrs. Grindlay & Co., Calcutta, after which date the said Administrator will proceed to administer the assets having regard only to the claims of which he shall then have received notice, and no claims sent in subsequently will be recognized, and all persons indebted to or holding any securities or property belonging to the said Estate are also hereby requested to pay without delay the amount owing by them, or deliver the said securities or property to the said Administrator whose receipt alone is valid for the same.

J. C. R. JOHNSTON,

Administrator to Estate,
T. B. Tracy decd.

CALCUTTA, 23rd December 1907.

UNCOVENANTED SERVICE FAMILY PENSION FUND.

NOTICE.

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By order of Directors,

RIVERS HOWE,

Secretary.

CALCUTTA;
The 23rd December 1907.

RAI A. L. MUKERJEE SAHIB & CO.,

27-7, Waterloo Street, Calcutta.

Utanka Laul Mukerjee, of Bagnapara Post Office, is the Sole Proprietor of the above firm from the 16th November 1907.

THE UTANKA AGENCY CO., "LTD.,"

Bankers, Merchants and Agents.

THE CENTRAL COAL COY., "LTD.,"

Registered Offices ;—

27-7, Waterloo Street, Calcutta.

Owing to the increase and extension of business the firm hitherto carried on at Ranigunge and Calcutta under the style of Utanka Laul and Co. (late Mukerjee and Co., since 1879), and at Burakar, Jheria and Calcutta under the style of the Central Coal Co. since 1894), having been transferred to Joint-Stock Companies under the above names and styles will in future continue to be carried on, on behalf of the abovenamed Companies, by Rai A. L. Mukerjee Sahib and Co., as Managing Agents, under my signature.

U. L. MUKERJEE.

Dated Calcutta, the 7th January 1908.

N.B.—Intending subscribers may register their names to reserve the amount of shares they are willing to subscribe within 31st of January 1908.

Lost.

The undermentioned Interest Warrant issued in my name.

No. 83877, dated 31st December 1907, $3\frac{1}{2}\%$ of 1854.53 for R102-4-3 favouring Pankojini Ghose.

The payment of the Warrant has been stopped in the Government Account Department of the Bank of Bengal and application for duplicate of the Warrant is about to be made to the Public Debt Office, Bank of Bengal, Calcutta.

PANKOJINI GHOSE,
65/1, Mirzapore Street, Calcutta.



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PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 25, 1908.

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PART III.

Advertisements and Notices by Private Individuals and Corporations.

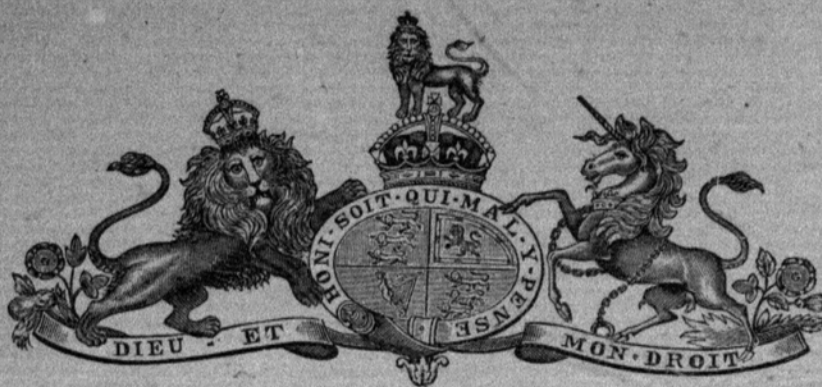
Lost.

The undermentioned Interest Warrant issued in my name.

No. 83877, dated 31st December 1907, 3½% of 1854-55 for R102-4-3 favouring Pankojini Ghose.

The payment of the Warrant has been stopped in the Government Account Department of the Bank of Bengal and application for duplicate of the Warrant is about to be made to the Public Debt Office, Bank of Bengal, Calcutta.

PANKOJINI GHOSE,
65/1, Mirzapore Street, Calcutta



The Gazette of India.

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CALCUTTA, SATURDAY, FEBRUARY 1, 1908.

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PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost.

The undermentioned Interest Warrant issued in my name.

No. 83877, dated 31st December 1907, $3\frac{1}{2}\%$ of 1854-55 for R102-4-3 favouring Pankojini Ghose.

The payment of the Warrant has been stopped in the Government Account Department of the Bank of Bengal and application for duplicate of the Warrant is about to be made to the Public Debt Office, Bank of Bengal, Calcutta.

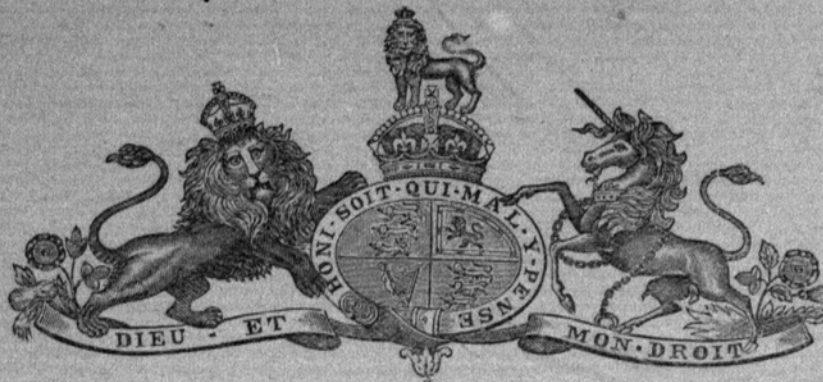
PANKOJINI GHOSE,
65/1, Mirzapore Street, Calcutta.

Lost.

The Government Promissory Note No. 045629 of the $3\frac{1}{2}$ per cent. loan of 1854-55 for Rs500 originally standing in the name of the Comptroller General and last endorsed to Jogendra Nath Basak, the Proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of the Proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of the advertiser—JOGENDRA NATH BASAK,
Residence—Kaltabazar, Dacca.

KALTABAZAR;
The 18th January 1908.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 8, 1908.

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PART III.

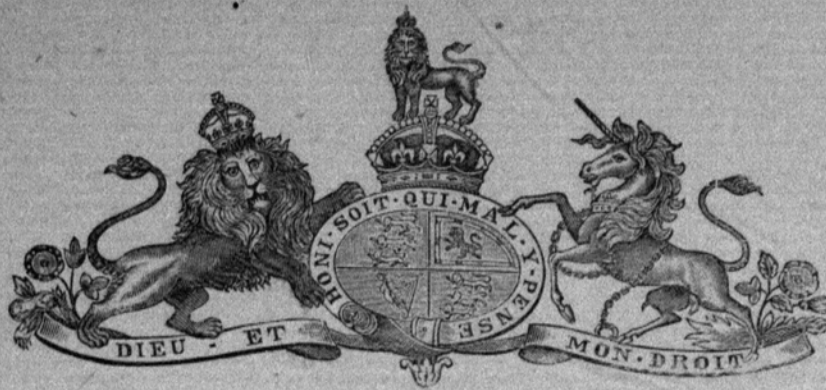
Advertisements and Notices by Private Individuals and Corporations.

Lost.

The Government Promissory Note No. 045629 of the 3½ per cent. loan of 1854-55 for Rs500 originally standing in the name of the Comptroller General and last endorsed to Jogendra Nath Basak, the Proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of the Proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of the advertiser—JOGENDRA NATH BASAK,
Residence—Kaltabazar, Dacca.

KALTABAZAR;
The 18th January 1908.



The Gazette of India

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 15, 1908.

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PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost.

The Government Promissory Note No. 045629 of the $3\frac{1}{2}$ per cent. loan of 1854-55 for Rs500 originally standing in the name of the Comptroller General and last endorsed to Jogendra Nath Basak, the Proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of the Proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of the advertiser—JOGENDRA NATH BASAK,
Residence—Kaltabazar, Dacca.

KALTABAZAR;
The 18th January 1908.

Lost.

Government Promissory Notes Nos. 050962 and 048057 of the $3\frac{1}{2}$ per cent. loan of 1900-01 for Rs1,000 and Rs500, respectively, originally standing in the name of the National Bank of India, Limited, and last endorsed to Mohan Tulsey (who was the Joint Proprietor thereof with his brother Hirjee Tulsey as member of a joint and undivided Hindoo family) by whom they were never endorsed to any other person, having been lost, notice is hereby given that payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicates in favour of the sole surviving proprietor Hirjee Tulsey. The public are cautioned against purchasing, or otherwise dealing with the abovementioned securities.

Name of advertiser, i. e., — Hirjee Tulsey HIRJEE TULSEY,

Dated this 18th day of January 1908.

Sole surviving Proprietor.
Residence—Bhendi Bazar, Telwalla's Mala,
3rd Floor, Bombay.



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CALCUTTA, SATURDAY, FEBRUARY 22, 1908.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost.

Government Promissory Notes Nos. 050962 and 048057 of the $3\frac{1}{2}$ per cent. loan of 1900-01 for Rs. 1,000 and Rs. 500, respectively, originally standing in the name of the National Bank of India, Limited, and last endorsed to Mohan Tulsey (who was the Joint Proprietor thereof with his brother Hirjee Tulsey as member of a joint and undivided Hindoo family) by whom they were never endorsed to any other person, having been lost, notice is hereby given that payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicates in favour of the sole surviving proprietor Hirjee Tulsey. The public are cautioned against purchasing, or otherwise dealing with the abovementioned securities.

Name of advertiser, *i. e.*,—**HIRJEE TULSEY,**

Sole surviving Proprietor.

Residence—Bhendi Bazar, Telwalla's Mala,

3rd Floor, Bombay.

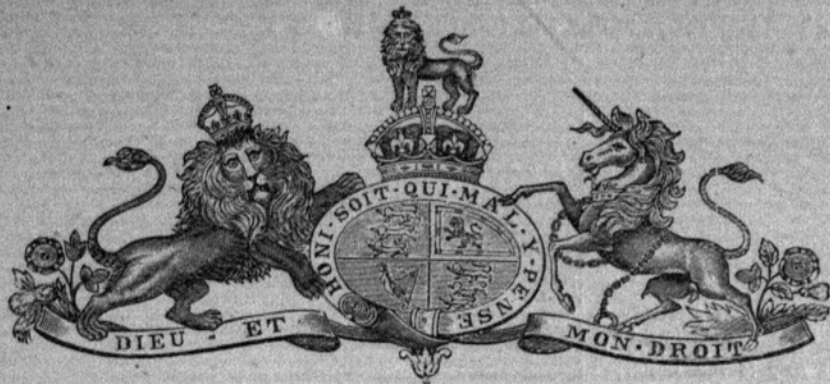
Dated this 18th day of January 1908.

Destroyed.

The Government Promissory Notes Nos. 085343 and 085344 for Rs. 500 each of the $3\frac{1}{2}$ per cent. loan of 1842-43, Nos. 077042 and 077048 for Rs. 300 each and No. 077713 for Rs. 400 of the $3\frac{1}{2}$ per cent. loan of 1854-55 originally standing in the name of the Bank of Bengal and last endorsed to Bepin Behary Nandi, the proprietor, by whom they were never endorsed to any other person, having been destroyed, notice is hereby given that payment of the above Notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicates in favour of the proprietor. The Public are cautioned against purchasing or otherwise dealing with the above mentioned securities.

Name of Advertiser—**BEPIN BEHARY NANDI,**

Residence—Sandhipur, P. O. Ilahipur, District Hooghly.



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PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 29, 1908.

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PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost.

Government Promissory Notes Nos. 050962 and 048057 of the $3\frac{1}{2}$ per cent. loan of 1900-01 for Rs. 1,000 and Rs. 500, respectively, originally standing in the name of the National Bank of India, Limited, and last endorsed to Mohan Tulsey (who was the Joint Proprietor thereof with his brother Hirjee Tulsey as member of a joint and undivided Hindoo family) by whom they were never endorsed to any other person, having been lost, notice is hereby given that payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicates in favour of the sole surviving proprietor Hirjee Tulsey. The public are cautioned against purchasing, or otherwise dealing with the abovementioned securities.

Name of advertiser, *i.e.*,—**HIRJEE TULSEY,**

Sole surviving Proprietor.

Residence—Bhendi Bazar, Telwalla's Mala,

3rd Floor, Bombay.

Dated this 18th day of January 1908.

Destroyed.

The Government Promissory Notes Nos. 085343 and 085344 for Rs. 500 each of the $3\frac{1}{2}$ per cent. loan of 1842-43, Nos. 077042 and 077048 for Rs. 300 each and No. 077713 for Rs. 400 of the $3\frac{1}{2}$ per cent. loan of 1854-55 originally standing in the name of the Bank of Bengal and last endorsed to Bepin Behary Nandi, the proprietor, by whom they were never endorsed to any other person, having been destroyed, notice is hereby given that payment of the above Notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicates in favour of the proprietor. The Public are cautioned against purchasing or otherwise dealing with the above mentioned securities.

Name of Advertiser—**BEPIN BEHARY NANDI,**

Residence—Sandhipur, P. O. Ilahipur, District Hooghly.

Abstract Statement of the Uncovenanted Service Family Pension Fund for the quarter ending 30th April 1907, being the fourth quarter of the year 1906-07, compared with the corresponding quarter of the year 1905-06.

PARTICULARS.	For the quarter ending 30th April 1907.		For the quarter ending 30th April 1906.		Increase.		Decrease.	
	R	a. p.	R	a. p.	R	a. p.	R	a. p.
Balance in favour of the Fund at the end of the previous quarter	1,51,68,838	0 9	1,51,06,370	12 11	62,467	3 10	.....
ADD—RECEIPTS—								
Subscriptions from 1st February to 30th April 1907 in the Widows' Fund	1,23,440	9 6	1,26,618	2 6	.....		3,168	9 0
Subscriptions from 1st February to 30th April 1907 in the Children's Fund	54,031	4 0	57,728	7 7	.....		3,697	3 7
Income and outlay on office buildings and grounds	1,085	9 6	1,813	15 0	.....		728	5 6
Fees and stamps	37	9 0	9	8 0	28	1 0	.....
Amount at credit of subscribers under Rule 55 transferred to divisible surplus	12	12 0	216	0 0	.....		203	4 0
Amount of pension with interest received from Government of India on behalf of incumbents who came upon the Fund in consequence of the Mutiny of 1857	691	12 3	1,015	15 6	.....		324	3 3
Amount of interest received from Government of India for the year 1906-07	9,04,418	13 11	9,01,444	4 7	2,974	9 4	.....
Amount of fine imposed in respect of subscriptions in arrear	52	2 4	65	8 0	.....		13	5 8
TOTAL RECEIPTS	10,83,779	8 6	10,88,911	13 2	3,002	10 4	8,134	15 0
GRAND TOTAL	1,62,52,617	9 3	1,61,95,282	10 1	(A) 65,469	14 2	8,134	15 0
DEDUCT—DISBURSEMENTS—								
Pensions payable to incumbents in the Widows' Fund	1,77,547	15 9	1,75,811	9 6	1,736	6 3	.....
Pensions payable to incumbents in the Children's Fund	93,610	4 4	93,895	11 8	.....		285	7 4
Establishment and contingencies	15,712	11 1	7,573	8 6	8,139	2 7	.....
Loss by exchange on remittances out of India	10,869	11 1	10,987	8 5	.....		117	13 4
Commission paid for money-orders	760	1 0	781	3 0	.....		21	2 0
TOTAL DISBURSEMENTS	2,98,500	11 3	2,89,049	9 1	(B) 9,875	8 10	424	6 8
Balance in favour of the Fund	1,59,54,116	14 0	1,59,06,233	1 0	(C) 55,594	5 4	7,710	8 4
GRAND TOTAL	1,62,52,617	9 3	1,61,95,282	10 1	65,469	14 2	8,134	15 0
Proportion of divisible surplus payable to qualified members of more than five years' standing	85,017	12 0	92,640	12 0	.....		7,623	0 0

	Widows' Fund.	Children's Fund.	Widows' Fund.	Children's Fund.	Widows' Fund.	Children's Fund.	Widows' Fund.	Children's Fund.
Number of subscribers	1,085	660	1,123	697	...	...	38	37
Ditto of incumbents	716	850	719	858	...	...	3	8
Ditto of subscribers sharing abatement	1,113	635	1,151	669	...	...	38	34

A.—Net increase in grand total of Receipts R a. p.
 B.—Net increase in total Disbursements 57,334 15 2
 C.—Net increase in Balance 9,451 2 2
 47,883 13 0

JAMES W. MEDLAND, A. C. A.,
 Offg. Auditor, } Auditors.
 J. C. C. GRAY, Accountant, }

K. C. DAS,
 Offg. Accountant.

Published by order of the Directors,
 RIVERS HOWE,
 Secretary.

U. S. F. P. Fund Office,
 Calcutta, the 18th January 1908.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 7, 1908.

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PART III.

Advertisements and Notices by Private Individuals and Corporations.

Destroyed.

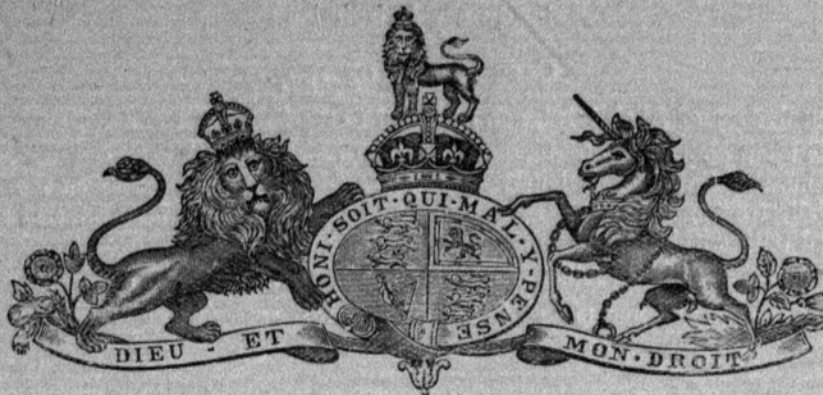
The Government Promissory Notes Nos. 085343 and 085344 for Rs500 each of the $3\frac{1}{2}$ per cent. loan of 1842-43, Nos. 077042 and 077048 for Rs300 each and No. 077713 for Rs400 of the $3\frac{1}{2}$ per cent. loan of 1854-55 originally standing in the name of the Bank of Bengal and last endorsed to Bepin Behary Nandi, the proprietor, by whom they were never endorsed to any other person, having been destroyed, notice is hereby given that payment of the above Notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicates in favour of the proprietor. The Public are cautioned against purchasing or otherwise dealing with the above mentioned securities.

Name of Advertiser—BEPIN BEHARY NANDI,
Residence—Sandhipur, P. O. Ilahipur, District Hooghly.

Lost.

The Government Promissory Note No. 000161 of the 5 per cent. of 1872 for Rs500 originally standing in the name of Vinayek Jageshwar Ghui, Manager, Vithal Rukhmaies Mandir of Nagpur, the proprietor by whom it was never endorsed to any other person, having been lost, Notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicate in favor of the Proprietor. The public are cautioned against purchasing or otherwise dealing with the above mentioned Security.

VINAYEK JAGESHWAR GHUI,
Manager, Vithal Mandir.



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CALCUTTA, SATURDAY, MARCH 14, 1908.

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PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost.

The Government Promissory Note No. 006351 of the 3% of 1896-97 for Rs. 1,000 originally standing in the name of The National Bank of India, Limited, and last endorsed to Vavilla Venkateswara Sastrulu, the proprietor, by whom it was never endorsed to any other person. Payment of the above note and the interest thereon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and application is about to be made for the issue of duplicate in favour of the proprietor.

Name of the advertiser—V. VENKATESWARA SASTRULU,
Residence—323, Trivatiur High Road.

MADRAS ;
The 13th January 1908.

Estate F. G. Ballard deceased.

PURSUANT TO SECTION 42, ACT 28 OF 1866.

Notice is hereby given that all persons having claims against the late Frederick George Ballard who died at Dehra Dum on the 30th December 1907, Letters of Administration to whose Estate have been granted to Joseph Carstairs Roberts Johnston of Messrs. Grindlay & Co., Calcutta, are required to send in the same on or before 16th April next to the said Messrs. Grindlay & Co., Calcutta, after which date the said Administrator will proceed to administer the assets, having regard only to the claims of which he shall then have received notice, and no claims sent in subsequently will be recognized, and all persons indebted to or holding any securities or property belonging to the said Estate are also hereby requested to pay without delay the amount owing by them, or deliver the said securities or property to the said Administrator whose receipt alone is valid for the same.

J. C. R. JOHNSTON,
Administrator to Estate, F. G. Ballard deceased.

CALCUTTA ;
The 4th March 1908.

IN THE COURT OF DISTRICT JUDGE, BANNU.

(Insolvency Jurisdiction.)

CASE NO. 91 OF 1907.

In re insolvency of Allah Diyá, son of Shadi Caste Gujar of Bannu.

Whereas upon enquiry made upon the application of Allah Diyá, son of Shadi Caste Gujar of Bannu, this Court is satisfied that statements made by him in the application are substantially true and that the said Allah Diyá, judgment debtor, has not committed any act of bad faith within the meaning of section 351 of the Civil Procedure Code :

It is ordered that the said Allah Diyá be, and hereby is, declared insolvent.

Given under my hand and the seal of this Court this 10th day of January 1908.

THÁKUR DÁS DHAWAN.

District Judge.

Resolution adopted at the last Annual General Meeting of the Subscribers to the
Hindu Family Fund held on the 25th January 1908.

"That the Directors be authorised to draw in the manner laid down in Rule 73 Rs57,504 (Fifty-seven thousand five hundred and four only) from the Deposit account with the Government of India to meet expenditure provided for in the Budget Estimate for the year 1908-09."

RAI CHARAN GHOSH,
Chairman.

KUNJA BEHARY BASU,
Secretary.



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CALCUTTA, SATURDAY, MARCH 21, 1908.

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PART III.

Advertisements and Notices by Private Individuals and Corporations.

Estate F. G. Ballard deceased.

PURSUANT TO SECTION 42, ACT 28 OF 1866.

Notice is hereby given that all persons having claims against the late Frederick George Ballard who died at Dehra Dum on the 30th December 1907, Letters of Administration to whose Estate have been granted to Joseph Carstairs Roberts Johnston of Messrs. Grindlay & Co., Calcutta, are required to send in the same on or before 16th April next to the said Messrs. Grindlay & Co., Calcutta, after which date the said Administrator will proceed to administer the assets, having regard only to the claims of which he shall then have received notice, and no claims sent in subsequently will be recognized, and all persons indebted to or holding any securities or property belonging to the said Estate are also hereby requested to pay without delay the amount owing by them, or deliver the said securities or property to the said Administrator whose receipt alone is valid for the same.

J. C. R. JOHNSTON,

Administrator to Estate, F. G. Ballard deceased.

CALCUTTA ;
The 4th March 1908.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 28, 1908.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Estate F. G. Ballard deceased.

PURSUANT TO SECTION 42, ACT 28 OF 1866.

Notice is hereby given that all persons having claims against the late Frederick George Ballard who died at Dehra Dun on the 30th December 1907, Letters of Administration to whose Estate have been granted to Joseph Carstairs Roberts Johnston of Messrs. Grindlay & Co., Calcutta, are required to send in the same on or before 16th April next to the said Messrs. Grindlay & Co., Calcutta, after which date the said Administrator will proceed to administer the assets, having regard only to the claims of which he shall then have received notice, and no claims sent in subsequently will be recognized, and all persons indebted to or holding any securities or property belonging to the said Estate are also hereby requested to pay without delay the amount owing by them, or deliver the said securities or property to the said Administrator whose receipt alone is valid for the same.

J. C. R. JOHNSTON,

Administrator to Estate, F. G. Ballard deceased.

• CALCUTTA ;
The 4th March 1908.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, APRIL 11, 1908.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost or Mislaid.

The upper half of the Government Promissory Note No. 027735 of the $4\frac{1}{2}$ per cent. of 1872 reduced to 4 per cent. of 1879 for Rs500 originally standing in the name of the Judge of Rajsabhye and last endorsed to Kally Prosonno Chuckerbutty, the proprietor, by whom it was never endorsed to any other person, having been lost or mislaid, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the above-mentioned security.

Name of the Advertiser—KALLY PROSONNO CHUCKERBUTTY.
Residence—Ranaghat (Nuddia).

Estate D. L. M. Mackay deceased.

PURSUANT TO SECTION 42, ACT 28 OF 1866.

Notice is hereby given that all persons having claims against the late Duncan Lochlan Macpherson Mackay of the Indian Civil Service who died on 21st July 1907 at Dyncourt, Cheltenham, Gloucester, Letters of Administration to whose Estate have been granted to James Edmund Vallance, of Messrs Grindlay & Co., Calcutta, are required to send in the same on or before 16th May next to the said Messrs. Grindlay & Co., Calcutta, after which date the said Administrator will proceed to administer the assets, having regard only to the claims of which he shall then have received notice, and no claims sent in subsequently will be recognized, and all persons indebted to or holding any securities or property belonging to the said Estate are also hereby requested to pay without delay the amount owing by them, or deliver the said securities or property to the said Administrator whose receipt alone is valid for the same.

J. E. VALLANCE,
Administrator to Estate.

CALCUTTA ;
The 3rd April 1908.

Stolen.

The two Bombay Municipal Debentures for Rs. 1,000 showing the number, loan amount and name of original holder of each, as detailed below, and last endorsed to Laldass Dalutram and Baimangu, wife of Laldass Dalutram, the proprietors, by whom they were never endorsed to any other person, having been stolen, notice is hereby given that payment of the said Debentures and the interest thereupon have been stopped at the Public Debt Office, Bank of Bombay, and that application is about to be made for the issue of duplicates and payment of interest in favour of the proprietors. The public are cautioned against purchasing or otherwise dealing with the said Debentures.

Number of Debentures.	Loan.	Amount.	Originally standing in the name of
5373	4 per cent. 42 lacs.	500	The Bank of Bengal.
5374	4 " " 42 "	500	Ditto.

Name of the applicant—LALDASS DALUTRAM,
Residence—Chinchavli, Post Karjat.

Dated the 29th January 1908.

THE MADRAS & SOUTHERN MAHRATTA RAILWAY CO., LD.

NOTICE.

In fulfilment of the Agreement made with the Secretary of State for India for the extension of its system, The Southern Mahratta Railway Company, Ltd., has, after due procedure, been authorised to change its name from

THE SOUTHERN MAHRATTA RAILWAY COMPANY, LIMITED,

TO

THE MADRAS AND SOUTHERN MAHRATTA RAILWAY COMPANY, LIMITED.

The Company's new name will be used in all official documents from 16th March 1908.

The Company's extended system now includes the following lines of Railway:—

The lines formerly known as the Southern Mahratta Railway System including The Mysore State Railways and the W. I. P. Guaranteed State Railway.

The lines formerly known as the Madras Railway System with the exception of the South-West line from Jalarpet (exclusive) to Mangalore and its branches.

The Dharmavaram-Pakala and the Katpadi-Gudur Sections of the South Indian Railway.

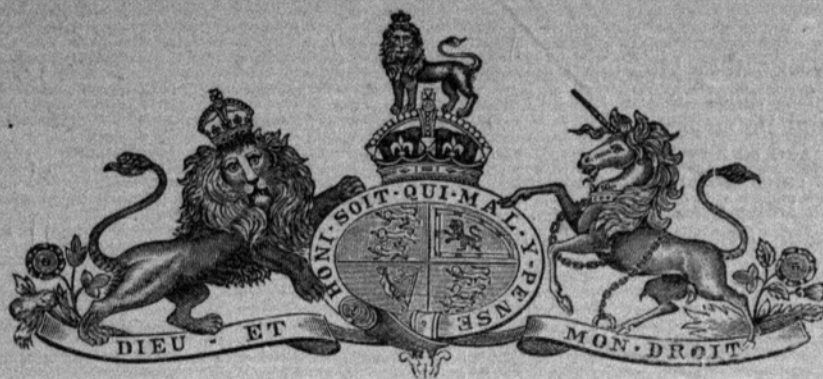
All letters and communications which have in the course of business hitherto been addressed to The Agent, Southern Mahratta Railway Co., Ltd., as also those pertaining to the sections of the South Indian Railway referred to above, should be addressed to The Acting Agent, The Madras and Southern Mahratta Railway Co., Ltd., Dharwar.

All letters and communications relating to the current business of the Madras Railway (East of Jalarpet as above) will, up to 30th June 1908, continue to be addressed to The Acting Agent, Madras Section, The Madras and Southern Mahratta Railway Co., Ltd., Rayapuram, Madras.

A. R. ANDERSON,

Acting Agent,
Madras and Southern Mahratta Railway Co., Ltd.

AGENT'S OFFICE,
Dharwar, the 16th March 1908.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, APRIL 18, 1908.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost or Mislaid.

The upper half of the Government Promissory Note No. 027735 of the $4\frac{1}{2}$ per cent. of 1872 reduced to 4 per cent. of 1879 for Rs500 originally standing in the name of the Judge of Rajshahye and last endorsed to Kally Prosonno Chuckerbutty, the proprietor, by whom it was never endorsed to any other person, having been lost or mislaid, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the above-mentioned security.

Name of the Advertiser—KALLY PROSONNO CHUCKERBUTTY.

Residence—Ranaghat (Nuddia).

Estate D. L. M. Mackay deceased.

PURSUANT TO SECTION 42, ACT 28 OF 1866.

Notice is hereby given that all persons having claims against the late Duncan Lothlan Macpherson Mackay of the Indian Civil Service who died on 21st July 1907 at Dyncourt, Cheltenham, Gloucester, Letters of Administration to whose Estate have been granted to James Edmund Vallance, of Messrs Grindlay & Co., Calcutta, are required to send in the same on or before 16th May next to the said Messrs. Grindlay & Co., Calcutta, after which date the said Administrator will proceed to administer the assets, having regard only to the claims of which he shall then have received notice, and no claims sent in subsequently will be recognized, and all persons indebted to or holding any securities or property belonging to the said Estate are also hereby requested to pay without delay the amount owing by them, or deliver the said securities or property to the said Administrator whose receipt alone is valid for the same.

J. E. VALLANCE,
Administrator to Estate.

CALCUTTA ;
The 3rd April 1908.

Stolen.

The two Bombay Municipal Debentures for ₹1,000 showing the number, loan amount and name of original holder of each, as detailed below, and last endorsed to Laldass Dalutram and Baimangu, wife of Laldass Dalutram, the proprietors, by whom they were never endorsed to any other person, having been stolen, notice is hereby given that payment of the said Debentures and the interest thereupon have been stopped at the Public Debt Office, Bank of Bombay, and that application is about to be made for the issue of duplicates and payment of interest in favour of the proprietors. The public are cautioned against purchasing or otherwise dealing with the said Debentures.

Number of Debentures.	Loan.	Amount.	Originally standing in the name of
5373	4 per cent. 42 lacs.	500	The Bank of Bengal.
5374	4 " " 42 "	500	Ditto.

Name of the applicant—LALDASS DALUTRAM,
Residence—Chinchavli, Post Karjat.

Dated the 29th January 1908.

The Powayan Steam Tramway Company, Limited.

Notice is hereby given that an Extraordinary General Meeting of the abovenamed Company will be held at the Company's Registered Office at Bareilly on Tuesday the 21st day of April 1908 at eleven o'clock in the forenoon precisely for the purpose of considering and if thought fit passing the following Resolution then intended to be proposed with a view to the same if duly passed and confirmed becoming a special Resolution altering the Articles of Association of the Company, that is to say:—

"That the Articles of Association of the Company be altered as follows:—

(1) By substituting the following clause for clause 35 thereof:—

35. No business shall be transacted at any General Meeting unless a quorum of members is present in person and a quorum shall be three registered members.

(2) The following clause shall be substituted for clause 37:—

37. One of the Managing Agents or some person appointed by the Managing Agents shall take the chair at every meeting of the Company and if there shall be no person present so entitled to take the Chair the members present shall choose one of their number to be Chairman.

(3) By inserting in clause 39 immediately after the word "demanded" where that word first occurs the words "in the case of a special or extraordinary Resolution by at least 5 members and in any other by the Chairman or at least".

(4) By adding at the end of clause 46 the words "or to a duly appointed proxy of a Corporation which holds shares in this Company and any such Corporation may appoint as its proxy any member of the Company or any person who is not a member and such proxy may vote and speak upon any question at the meeting as freely as if he were a member".

(5) By substituting in clause 49 the word "abridge" for the word "abide".

(6) By substituting the following clause for clause 51 that is to say:—

51. It shall rest with the Company in General Meeting from time to time to appoint Managing Agents of the Company and until otherwise determined the Managing Agents of the Company shall (in accordance with Resolution of the Company passed at a General Meeting on the 10th day of October 1907) be the Rohilkund and Kumaon Railway Company, Limited, (hereinafter called "the Railway Company") and Guilford Lindsay Edwards, the Agent or acting Agent of the Railway Company in India or other the Agent or Acting Agent for the time being and from time to time of the Railway Company in India and the Railway Company shall have full power to discharge all its duties and exercise all its powers as one of the Managing Agents by or through the said Guilford Lindsay Edwards or by or through its Agent or Acting Agent in India for the time being and shall be deemed to have delegated its powers and functions to the said Agent or Acting Agent from time to time accordingly.

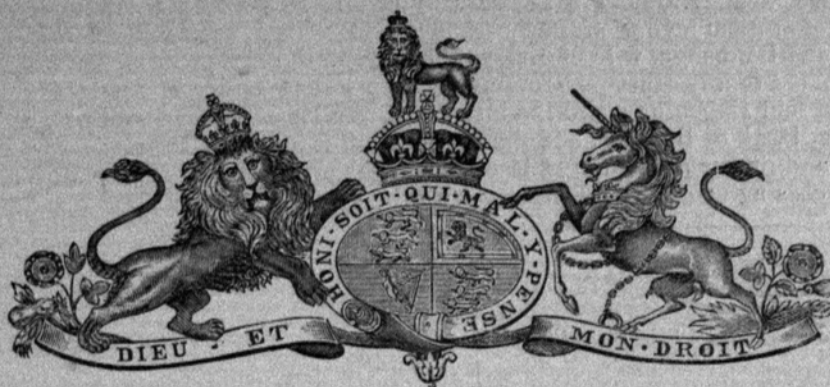
(7) By substituting the following clause for clause 66 :—

66. The common seal of the Company shall be deposited at the office of the Company and shall never be affixed to any document except in the presence of the Managing Agents or one of them or some person appointed for the purpose by them”.

Should the above Resolution be passed by the requisite majority it will be submitted for confirmation as a special resolution to a further Extraordinary General Meeting which will be subsequently convened.

G. L. EDWARDS,
Acting Agent, R. & K. Railway,
and
Managing Agent, P. S. T. Company.

Dated this 20th day of March 1908.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, APRIL 25, 1908.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost or Mislaid.

The upper half of the Government Promissory Note No. 027735 of the $4\frac{1}{2}$ per cent of 1872 reduced to 4 per cent. of 1879 for Rs500 originally standing in the name of the Judge of Rajshahye and last endorsed to Kally Prosonno Chuckerbutty, the proprietor, by whom it was never endorsed to any other person, having been lost or mislaid, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the above-mentioned security.

Name of the Advertiser—KALLY PROSONNO CHUCKERBUTTY.
Residence—Ranaghat (Nuddia).

Estate D. L. M. Mackay deceased.

PURSUANT TO SECTION 42, ACT 28 OF 1866.

Notice is hereby given that all persons having claims against the late Duncan Lochlan Macpherson Mackay of the Indian Civil Service who died on 21st July 1907 at Dyncourt, Cheltenham, Gloucester, Letters of Administration to whose Estate have been granted to James Edmund Vallance, of Messrs Grindlay & Co., Calcutta, are required to send in the same on or before 16th May next to the said Messrs. Grindlay & Co., Calcutta, after which date the said Administrator will proceed to administer the assets, having regard only to the claims of which he shall then have received notice, and no claims sent in subsequently will be recognized, and all persons indebted to or holding any securities or property belonging to the said Estate are also hereby requested to pay without delay the amount owing by them, or deliver the said securities or property to the said Administrator whose receipt alone is valid for the same.

J. E. VALLANCE,
Administrator to Estate.

CALCUTTA ;
The 3rd April 1908.

Stolen.

The two Bombay Municipal Debentures for Rs. 1,000 showing the number, loan amount and name of original holder of each, as detailed below, and last endorsed to Laldass Dalutram and Baimangu, wife of Laldass Dalutram, the proprietors, by whom they were never endorsed to any other person, having been stolen, notice is hereby given that payment of the said Debentures and the interest thereupon have been stopped at the Public Debt Office, Bank of Bombay, and that application is about to be made for the issue of duplicates and payment of interest in favour of the proprietors. The public are cautioned against purchasing or otherwise dealing with the said Debentures.

Number of Debentures.	Loan.	Amount.	Originally standing in the name of
5373	4 per cent. 42 lacs.	500	The Bank of Bengal.
5374	4 " " 42 "	500	Ditto.

Name of the applicant—LALDASS DALUTRAM,
Residence—Chinchavli, Post Karjat.

Dated the 29th January 1908.

Stolen.

The nine Calcutta Port Trust Debentures Nos. 47, 48, 49, 50, 51, 52, 53, 54, and 55 of the 4 per cent. of 1907 dated 1st October for Rs. 1,000 each originally standing in the name of Messrs. Prosad Das Boral and Brothers and last blank endorsed by Messrs. Prosad Das Boral and Brothers in favour of Onath Nath Deb, the proprietor, by whom they were never endorsed to any other person, having been stolen, notice is hereby given that payment of the above Debentures and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicates in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the above mentioned securities.

Name of advertiser—ONATH NATH DEB,
Residence—67, Beadon Street, Calcutta.

Stolen.

The two Calcutta Port Trust Debentures of the 4 per cent. of 1906 dated 1st December for Rs. 500 each, *viz.*, Nos. 416 and 568, the former originally standing in the name of the National Bank of India, Limited, and the latter in the name of the Delhi and London Bank, Limited, and both last blank endorsed by Messrs. Prosad Das Boral and Brothers in favour of Luckhy Money Dasi, the proprietor, by whom they were never endorsed to any other person, having been stolen, notice is hereby given that payment of the above Debentures and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicates in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the above mentioned securities.

Name of advertiser—SRIMATI LUCKHY MONEY DASI,
67, Beadon Street, Calcutta.

Lost.

The upper half of Government Promissory Note No. M 010683 of 30th June 1854 for Rs. 1,000 (one thousand), originally standing in the name of National Bank of India, Ltd., and last endorsed to M. Lakshmi Ammal, the proprietor, by whom it was never endorsed to any other person, having been lost payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of a duplicate in favour of the Proprietor. The public are cautioned against purchasing or otherwise dealing with the Note.

The 6th April 1908.

M. LAKSHMI AMMAL,
Malabari House, Vepery, Madras.

Destroyed.

The upper half of Government Promissory Note No. 157483 of the three and a half per cent. loan of 1865 for Rs10,000 originally standing in the name of Comptroller General and last endorsed to Babu Bepin Behari Samaddar of Kachubaria, Kasinagar Post Office, Jessore, the proprietor by whom it was never endorsed to any other person, having been destroyed, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of the Duplicate in favour of the Proprietor. The public are cautioned against purchasing or otherwise dealing with the above mentioned security.

BEPIN BEHARI SAMADDAR,
Kachubaria, Kasinagar P. O., Jessore.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MAY 2, 1908.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Stolen.

The nine Calcutta Port Trust Debentures Nos. 47, 48, 49, 50, 51, 52, 53, 54, and 55 of the 4 per cent. of 1907 dated 1st October for Rs. 1,000 each originally standing in the name of Messrs. Prosad Das Boral and Brothers and last blank endorsed by Messrs. Prosad Das Boral and Brothers in favour of Onath Nath Deb, the proprietor, by whom they were never endorsed to any other person, having been stolen, notice is hereby given that payment of the above Debentures and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicates in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the above mentioned securities.

Name of advertiser—ONATH NATH DEB,

Residence—67, Beadon Street, Calcutta.

Stolen.

The two Calcutta Port Trust Debentures of the 4 per cent. of 1906 dated 1st December for Rs. 500 each, *vis.*, Nos. 416 and 568, the former originally standing in the name of the National Bank of India, Limited, and the latter in the name of the Delhi and London Bank, Limited, and both last blank endorsed by Messrs. Prosad Das Boral and Brothers in favour of Luckhy Money Dasi, the proprietor, by whom they were never endorsed to any other person, having been stolen, notice is hereby given that payment of the above Debentures and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicates in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the above mentioned securities.

Name of advertiser—SRIMATI LUCKHY MONEY DAS,

67, Beadon Street, Calcutta.

Lost.

The upper half of Government Promissory Note No. M 010683 of 30th June 1854 for Rs. 1,000 (one thousand), originally standing in the name of National Bank of India, Ltd., and last endorsed to M. Lakshmi Ammal, the proprietor, by whom it was never endorsed to any other person, having been lost payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of a duplicate in favour of the Proprietor. The public are cautioned against purchasing or otherwise dealing with the Note.

M. LAKSHMI AMMAL,

Malabari House, Vepery, Madras.

The 6th April 1908.

Destroyed.

The upper half of Government Promissory Note No. 157483 of the three and a half per cent. loan of 1865 for Rs. 10,000 originally standing in the name of Comptroller General and last endorsed to Babu Bepin Behari Samaddar of Kachubaria, Kasinagar Post Office, Jessore, the proprietor by whom it was never endorsed to any other person, having been destroyed, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of the Duplicate in favour of the Proprietor. The public are cautioned against purchasing or otherwise dealing with the above mentioned security.

BEPIN BEHARI SAMADDAR,

Kachubaria, Kasinagar P. O., Jessore.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MAY 9, 1908.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Stolen.

The nine Calcutta Port Trust Debentures Nos. 47, 48, 49, 50, 51, 52, 53, 54, and 55 of the 4 per cent. of 1907 dated 1st October for ₹1,000 each originally standing in the name of Messrs. Prosad Das Boral and Brothers and last blank endorsed by Messrs. Prosad Das Boral and Brothers in favour of Onath Nath Deb, the proprietor, by whom they were never endorsed to any other person, having been stolen, notice is hereby given that payment of the above Debentures and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicates in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the above mentioned securities.

Name of advertiser—ONATH NATH DEB,

Residence—67, Beadon Street, Calcutta.

Stolen.

The two Calcutta Port Trust Debentures of the 4 per cent. of 1906 dated 1st December for ₹500 each, *vis.*, Nos. 416 and 568, the former originally standing in the name of the National Bank of India, Limited, and the latter in the name of the Delhi and London Bank, Limited, and both last blank endorsed by Messrs. Prosad Das Boral and Brothers in favour of Luckhy Money Dasi, the proprietor, by whom they were never endorsed to any other person, having been stolen, notice is hereby given that payment of the above Debentures and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicates in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the above mentioned securities.

Name of advertiser—SRIMATI LUCKHY MONEY DAS,

67, Beadon Street, Calcutta.

Lost.

The upper half of Government Promissory Note No. M 010683 of 30th June 1854 for Rs. 1,000 (one thousand), originally standing in the name of National Bank of India, Ltd., and last endorsed to M. Lakshmi Ammal, the proprietor, by whom it was never endorsed to any other person, having been lost payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of a duplicate in favour of the Proprietor. The public are cautioned against purchasing or otherwise dealing with the Note.

M. LAKSHMI AMMAL,
Malabari House, Vepery, Madras.

The 6th April 1908.

Destroyed.

The upper half of Government Promissory Note No. 157483 of the three and a half per cent. loan of 1865 for Rs. 10,000 originally standing in the name of Comptroller General and last endorsed to Babu Bepin Behari Samaddar of Kachubaria, Kasinagar Post Office, Jessore, the proprietor, by whom it was never endorsed to any other person, having been destroyed, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of the Duplicate in favour of the Proprietor. The public are cautioned against purchasing or otherwise dealing with the above mentioned security.

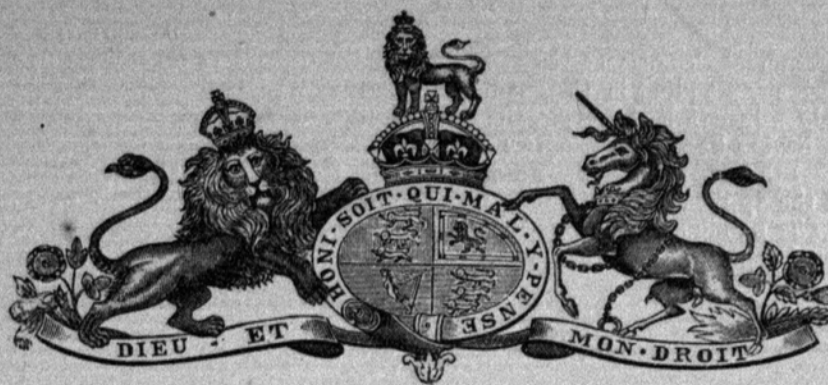
BEPIN BEHARI SAMADDAR,
Kachubaria, Kasinagar P. O., Jessore.

Lost.

The undermentioned Interest Warrant issued in my name No. 175866, dated 9th March 1908 for Rs. 17-0-11 favoring Satya Bhama Debi.

The payment of the Warrant has been stopped in the Government Account Department of the Bank of Bengal and application for duplicate of the Warrant is about to be made to the Public Debt Office, Bank of Bengal, Calcutta.

Name—HERALALL MOOKERJEE,
Address—15/4, Wellington Street, Calcutta.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MAY 16, 1908.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost.

The upper half of Government Promissory Note No. 072962 of the $3\frac{1}{2}$ per cent. Loan of 1900-01 for Rs500 originally standing in the name of Sha Gordhandas Ranchordas and last blank endorsed by him to Chhotalal Narotamdass, the Proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta and that application is about to be made for the issue of duplicate in favour of the Proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of the Advertiser—CHOTALAL NAROTAMDAS.

Residence—Kalbadevi Road No. 883/87.

Vakhatbai's house 3rd Floor.

Bombay.

BOMBAY :

The 28th April 1908.

Mislaid or Lost.

The Government Promissory Notes No. M 003521 of 1896-97 for Rs500, No. M 003843 of 1896-97 for Rs1,000, and No. M 003844 of 1896-97 for Rs1,000 originally, standing in the name of the Corporation of Madras and last endorsed to Arbuthnot's Industrials Limited the proprietors by whom they were never endorsed to any other person having been mislaid or lost, notice is hereby given that payment of the above Notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicates in favour of the Proprietor. The public are cautioned against purchasing or otherwise dealing with the above mentioned securities.

Name of the advertiser—ARBUTHNOT'S INDUSTRIALS, LTD.

Residence—Post Box No. 101,

Madras.

" Stolen. "

The Government Promissory Note No. 079319 of the 3½ per cent. loan of 1900-1901 for Rs500, originally standing in the name of Prosad Das Boral and Brothers, and last endorsed to Upendra Nath Mukerjee, the proprietor, by whom it was never endorsed to any other person, having been stolen, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and the application is about to be made for the issue of duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of the Advertiser—UPENDRA NATH MUKERJEE,
Residence—Rishra, Hooghly.

Estate W. R. Tucker, deceased.

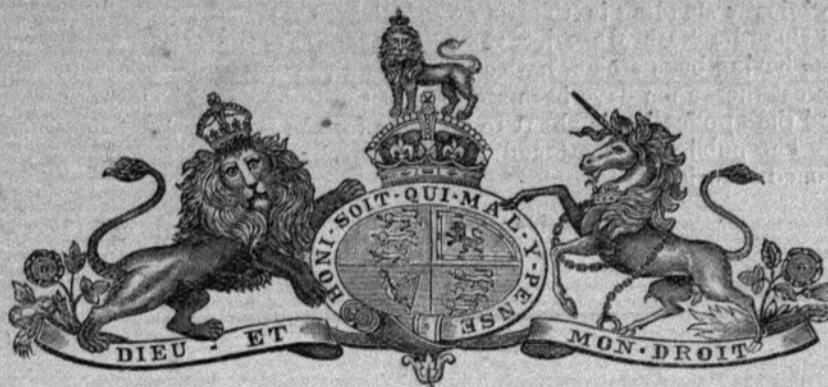
PURSUANT TO SECTION 42, ACT 28 OF 1866.

Notice is hereby given that all persons having claims against the late William Roxburgh Tucker, a retired Oudh Commissioner, who died at No. 67, Waverley Road, Southsea on 3rd January 1908, Letters of Administration to whose Estate have been granted to Joseph Carstairs Roberts Johnston, of Messrs. Grindlay and Co., Calcutta, are required to send in the same on or before 18th June next to the said Messrs. Grindlay & Co., Calcutta, after which date the said Administrator will proceed to administer the assets having regard only to the claims of which he shall then have received notice, and no claims sent in subsequently will be recognized, and all persons indebted to or holding any securities or property belonging to the said Estate are also hereby requested to pay without delay the amount owing by them, or deliver the said securities or property to the said Administrator whose receipt alone is valid for the same.

J. C. R. JOHNSTON,

Administrator to Estate, W. R. Tucker, deceased.

CALCUTTA ;
The 6th May 1908.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MAY 23, 1908.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost.

The upper half of Government Promissory Note No. 072962 of the $3\frac{1}{2}$ per cent. Loan of 1900-01 for Rs500 originally standing in the name of Sha Gordhandas Ranchordas and last blank endorsed by him to Chhotalal Narotamdass, the Proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of the Proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of the Advertiser—CHOTALAL NAROTAMDAS.

Residence—Kalbadevi Road No. 883/87.

Vakhatbai's house 3rd Floor.

Bombay.

BOMBAY :

The 28th April 1908.

Mislaid or Lost.

The Government Promissory Notes No. M 003521 of 1896-97 for Rs500, No. M 003843 of 1896-97 for Rs1,000, and No. M 003844 of 1896-97 for Rs1,000 originally, standing in the name of the Corporation of Madras and last endorsed to Arbuthnot's Industrials Limited, the proprietors by whom they were never endorsed to any other person having been mislaid or lost, notice is hereby given that payment of the above Notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicates in favour of the Proprietor. The public are cautioned against purchasing or otherwise dealing with the above mentioned securities.

Name of the advertiser—ARBUTHNOT'S INDUSTRIALS, LTD

Residence—Post Box No. 101,

Madras.

" Stolen."

The Government Promissory Note No. 079319 of the $3\frac{1}{2}$ per cent. loan of 1900-1901 for Rs500, originally standing in the name of Prosad Das Boral and Brothers, and last endorsed to Upendra Nath Mukerjee, the proprietor, by whom it was never endorsed to any other person, having been stolen, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and the application is about to be made for the issue of duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of the Advertiser—UPENDRA NATH MUKERJEE,
Residence—Rishra, Hooghly.

Lost.

The Government Promissory Note No. B010360 of the $3\frac{1}{2}$ per cent. loan of 1st May 1865 for Rs500 (five hundred only) originally standing in the name of the Bank of Bombay, and last endorsed to H. M. Masina, Ardaseer Nesserwanji Mody, N. J. Gamudia, Shapoorji B. Broacha, Jehangir B. Marzban and M. N. Wadia, the proprietors, by whom it was never endorsed to any other person but signed by them for payment of interest, having been lost, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicate in favour of the proprietors. The public are cautioned against purchasing or otherwise dealing with the above mentioned security.

Name of advertiser—H. M. MASINA, F.R.C.S.,
Managing Trustee, Dr. Masina's Hospital Funds.
Residence—Dr. Masina's Hospital, Clare Road, Byculla, Bombay.

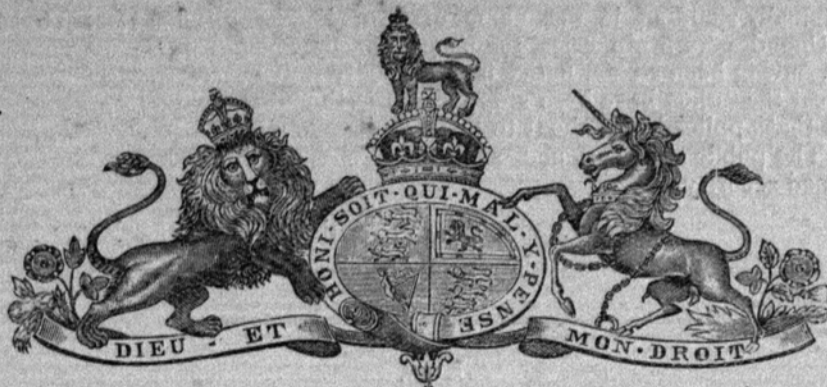
Estate W. R. Tucker, deceased.**PURSUANT TO SECTION 42, ACT 28 OF 1866.**

Notice is hereby given that all persons having claims against the late William Roxburgh Tucker, a retired Oudh Commissioner, who died at No. 67, Waverley Road, Southsee, on 3rd January 1908, Letters of Administration to whose Estate have been granted to Joseph Carstairs Roberts Johnston, of Messrs. Grindlay and Co., Calcutta, are required to send in the same on or before 18th June next to the said Messrs. Grindlay & Co., Calcutta, after which date the said Administrator will proceed to administer the assets having regard only to the claims of which he shall then have received notice, and no claims sent in subsequently will be recognized, and all persons indebted to or holding any securities or property belonging to the said Estate are also hereby requested to pay without delay the amount owing by them, or deliver the said securities or property to the said Administrator whose receipt alone is valid for the same.

J. C. R. JOHNSTON,
Administrator to Estate, W. R. Tucker, deceased.

CALCUTTA;
The 6th May 1908.





The Gazette of India

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MAY 30, 1908.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost.

The upper half of Government Promissory Note No. 072962 of the $3\frac{1}{2}$ per cent. Loan of 1900-01 for Rs500 originally standing in the name of Sha Gordhandas Ranchordas and last blank endorsed by him to Chhotalal Narotamdas, the Proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of the Proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of the Advertiser—CHOTALAL NAROTAMDAS.

Residence—Kalbadevi Road No. 883/87.

Vakhatabai's house 3rd Floor.

Bombay.

BOMBAY :

The 28th April 1908.

Mislaid or Lost.

The Government Promissory Notes No. M 003521 of 1896-97 for Rs500, No. M 003843 of 1896-97 for Rs1,000, and No. M 003844 of 1896-97 for Rs1,000 originally standing in the name of the Corporation of Madras and last endorsed to Arbuthnot's Industrials, Limited, the Proprietors by whom they were never endorsed to any other person, having been mislaid or lost, notice is hereby given that payment of the above Notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicates in favour of the Proprietors. The public are cautioned against purchasing or otherwise dealing with the abovementioned securities.

Name of the advertiser—ARBUTHNOT'S INDUSTRIALS, LTD.

Residence—Post Box No. 101,

Madras.

"Stolen."

The Government Promissory Note No. 079319 of the $3\frac{1}{2}$ per cent. loan of 1900-1901 for Rs500 originally standing in the name of Prosad Das Boral and Brothers, and last endorsed to Upendra Nath Mukerjee, the proprietor, by whom it was never endorsed to any other person, having been stolen, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of the Advertiser—UPENDRA NATH MUKERJEE,
Residence—Rishra, Hooghly.

Lost.

The Government Promissory Note No. Boro360 of the $3\frac{1}{2}$ per cent. loan of 1st May 1865 for Rs500 (five hundred only) originally standing in the name of the Bank of Bombay, and last endorsed to H. M. Masina, Ardaseer Nesserwanji Mody, N. J. Gamudia, Shapoorji B. Broacha, Jehangir B. Marzban and M. N. Wadia, the proprietors, by whom it was never endorsed to any other person but signed by them for payment of interest, having been lost, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicate in favour of the proprietors. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of advertiser—H. M. MASINĀ, F.R.C.S.,
Managing Trustee, Dr. Masina's Hospital Funds.
Residence—Dr. Masina's Hospital, Clare Road, Byculla, Bombay.

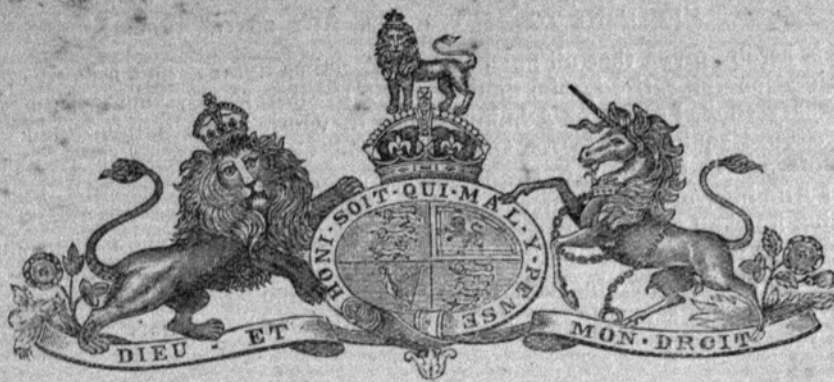
Estate W. R. Tucker, deceased.

PURSUANT TO SECTION 42, ACT 28 OF 1866.

Notice is hereby given that all persons having claims against the late William Roxburgh Tucker, a retired Oudh Commissioner, who died at No. 67, Waverley Road, Southsea, on 3rd January 1908, Letters of Administration to whose Estate have been granted to Joseph Carstairs Roberts Johnston, of Messrs. Grindlay and Co., Calcutta, are required to send in the same on or before 18th June next to the said Messrs. Grindlay & Co., Calcutta, after which date the said Administrator will proceed to administer the assets having regard only to the claims of which he shall then have received notice, and no claims sent in subsequently will be recognized, and all persons indebted to or holding any securities or property belonging to the said Estate are also hereby requested to pay without delay the amount owing by them, or deliver the said securities or property to the said Administrator whose receipt alone is valid for the same.

J. C. R. JOHNSTON,
Administrator to Estate, W. R. Tucker, deceased.

CALCUTTA;
The 6th May 1908.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JUNE 6, 1908.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost.

The Government Promissory Note No. B010360 of the $3\frac{1}{2}$ per cent. loan of 1st May 1865 for Rs500 (five hundred only) originally standing in the name of the Bank of Bombay, and last endorsed to H. M. Masina, Ardaseer Nesserwanji Mody, N. J. Gamudia, Shapoorji B. Broacha, Jehangir B. Marzban and M. N. Wadia, the proprietors, by whom it was never endorsed to any other person but signed by them for payment of interest, having been lost, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicate in favour of the proprietors. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of advertiser—H. M. MASINA, F.R.C.S.,
Managing Trustee, Dr. Masina's Hospital Funds.
Residence—Dr. Masina's Hospital, Clare Road, Byculla, Bombay

Stolen or destroyed.

The Government Promissory Note No. 157652 of the $3\frac{1}{2}$ per cent. of 1865 for Rupees 1,000 originally standing in the name of the Bank of Bengal and last endorsed to Kunja Lal Sen, the proprietor, by whom it was never endorsed to any other person, having been stolen, or destroyed, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

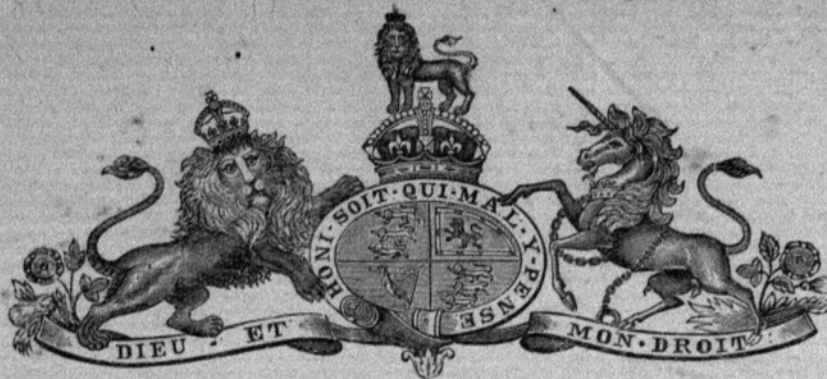
Name of the advertiser—KUNJA LAL SEN,
Residence—Senhati (Khulna), at present Krishnagar Judge's office.

Estate Joseph William Hughes.**PURSUANT TO SECTION 42, ACT 28 OF 1866.**

Notice is hereby given that all persons having claims against the late Joseph William Hughes, Major-General, retired, who died at No. 2 Preston Park Avenue Brighton, England, on 10th February 1908, Letters of Administration to whose Estate have been granted to J. C. R. Johnston, Esquire, of Messrs. Grindlay & Co., Calcutta, are required to send in the same on or before 11th July next to the said Messrs. Grindlay & Co., Calcutta, after which date the said Administrator will proceed to administer the assets, having regard only to the claims of which he shall then have received notice, and no claims sent in subsequently will be recognized, and all persons indebted to or holding any securities or property belonging to the said Estate are also hereby requested to pay without delay the amount owing by them, or deliver the said securities or property to the said Administrator whose receipt alone is valid for the same.

J. C. R. JOHNSTON,
Administrator to Estate.

CALCUTTA ;
The 25th May 1908.



The Gazette of India

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JUNE 13, 1908.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Stolen or destroyed.

The Government Promissory Note No. 157652 of the $3\frac{1}{2}$ per cent. of 1865 for Rupees 1,000 originally standing in the name of the Bank of Bengal and last endorsed to Kunja Lal Sen, the proprietor, by whom it was never endorsed to any other person, having been stolen, or destroyed, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of the advertiser—KUNJA LAL SEN,
Residence—Senhati (Khulna), at present Krishnagar Judge's office.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JUNE 20, 1908.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Stolen or destroyed.

The Government Promissory Note No. 157652 of the $3\frac{1}{2}$ per cent. of 1865 for Rupees 1,000 originally standing in the name of the Bank of Bengal and last endorsed to Kunja Lal Sen, the proprietor, by whom it was never endorsed to any other person, having been stolen, or destroyed, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of the advertiser—KUNJA LAL SEN,
Residence—Senhati (Khulna), at present Krishnagar Judge's office.

Lost.

The Government Promissory Note No. B 017912 of the $3\frac{1}{2}$ per cent. loan of 1865 for Rs. 500 (five hundred) only originally standing in the name of Dadabhoy Cursetjee Revitna and last endorsed to Tricumdas Madhowjee, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of the advertiser—TRICUMDAS MADHOWJI,
Residence—Tricumdas Madhowji, C/o Tricumdas,
Pursotam's shops, Moolji Jaitha Market,
Dadar Lane, Bombay.

Estate Joseph William Hughes.

PURSUANT TO SECTION 42, ACT 28 OF 1866.

Notice is hereby given that all persons having claims against the late Joseph William Hughes, Major-General, retired, who died at No. 2 Preston Park Avenue Brighton, England, on 10th February 1908, Letters of Administration to whose Estate have been granted to J. C. R. Johnston, Esquire, of Messrs. Grindlay & Co., Calcutta, are required to send in the same on or before 11th July next to the said Messrs. Grindlay & Co., Calcutta, after which date the said Administrator will proceed to administer the assets, having regard only to the claims of which he shall then have received notice, and no claims sent in subsequently will be recognized, and all persons indebted to or holding any securities or property belonging to the said Estate are also hereby requested to pay without delay the amount owing by them, or deliver the said securities or property to the said Administrator whose receipt alone is valid for the same.

J. C. R. JOHNSTON,
Administrator to Estate.

CALCUTTA;
The 25th May 1908.

The Bengal Stone Company, Limited.

In pursuance of section 75 of the Indian Companies Act of 1882 an Ordinary General Meeting of the shareholders of the above Company will be held at the Registered Office, No. 100, Clive Street, Calcutta, on Tuesday, the 23rd June 1908, at three o'clock to pass the accounts, declare a dividend and transact such business as may be brought before the meeting.

For The Bengal Stone Company, Ltd.,
Per-pro. GEO. HENDERSON & Co.,

T. CURTIS-HAYWARD,
Managing Directors and Secretaries.

CALCUTTA,
8th June 1908.

The Bengal Stone Company, Limited.

Notice is hereby given that an Extraordinary General Meeting of the Bengal Stone Company, Limited, will be held at the Registered Office of the Company, No. 100, Clive Street, Calcutta, on Tuesday, the 23rd day of June 1908, at the termination of the Ordinary General Meeting called for three o'clock on that date for the purpose of considering and, if thought fit, passing with or without modification the following Resolutions, that is to say:—

(1) That the Capital of the Company be increased by the creation of 1,200 additional shares of Rs100 each carrying dividend as from the first day of July 1908 and ranking in all other respects both as to dividend and otherwise *pari passu* with the existing shares of the Company.

(2) The Managing Directors and Secretaries be authorised to allot the said 1,200 new shares of Rs100 each representing the authorised increase of the Company's Capital *pro rata* among the existing shareholders of the Company according to the number of shares of which they may on the 23rd day of June 1908 be the registered holders.

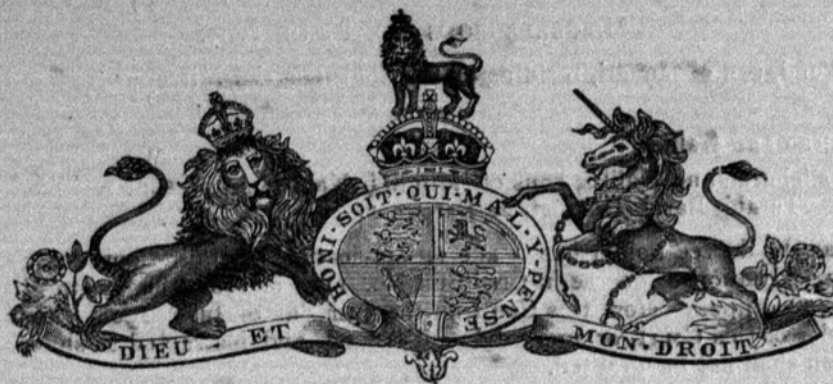
(3) That the shares so allotted shall be allotted on the terms that the full amount thereof shall be payable on allotment.

(4) That in the event of any of the shareholders of the Company failing on or before the 30th day of June 1908 (or within such further time as the Managing Directors and Secretaries may in their absolute discretion allow or appoint in that behalf) to signify their willingness to accept such allotment as aforesaid and to pay for the new shares so to be allotted to them as aforesaid the Managing Directors and Secretaries be and they are hereby authorised to allot such shares to such person or persons and upon such terms as they may deem best in the interests of the Company.

For The Bengal Stone Company, Ltd.
Per-pro. GEO. HENDERSON & Co.,

T. CURTIS-HAYWARD,
Managing Agents and Secretaries.

100, CLIVE STREET,
Calcutta, 8th June 1908.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JUNE 27, 1908.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost.

The Government Promissory Note No. B 017912 of the $3\frac{1}{2}$ per cent. loan of 1865 for Rs. 500 (five hundred) only originally standing in the name of Dadabhoy Cursetjee Revitna and last endorsed to Tricumdas Madhowjee, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of the advertiser—TRICUMDAS MADHOWJI,

Residence—Tricumdas Madhowji, C/o Tricumdas,
Pursotam's shops, Moolji Jaitha Market,
Dadar Lane, Bombay.

Estate William Henry Owen.

PURSUANT TO SECTION 42, ACT 28 OF 1866.

Notice is hereby given that all persons having claims against the late William Henry Owen, a Notary Public, who died at Devonport, Tasmania, on 28th December 1907, Letters of Administration to whose Estate have been granted to J. C. R. Johnston, Esq. of Messrs. Grindlay & Co., Calcutta, are required to send in the same on or before 1st August next to the said Messrs. Grindlay & Co., Calcutta, after which date the said Administrator will proceed to administer the assets, having regard only to the claims of which he shall then have received notice, and no claims sent in subsequently will be recognized, and all persons indebted to or holding any securities or property belonging to the said Estate are also hereby requested to pay without delay the amount owing by them, or deliver the said securities or property to the said Administrator whose receipt alone is valid for the same.

J. C. R. JOHNSTON,
Administrator to Estate.

CALCUTTA ;
The 17th June 1908.

IN THE COURT OF THE MUNSIF AT MIRZAPUR.

CIVIL SUIT NO. 1197 OF 1904.

MISCELLANEOUS NO. 87 OF 1907.

Balmakund, son of Jauhari, residing at Bhadohi, District Mirzapur,
versus

Kalicharan and Kalika.

To—Kalicharan and Kalika, sons of Munhgi Kalwar, at present residing at Mohalla
Turahi, Barah District, 24-Parganas.

Whereas the decree-holder has made an application to this Court for realization of Rs 541-8-0 in execution of decree in Civil Suit No. 1197 of 1904, this is to give you notice that you are to appear before this Court on the 30th day of June 1908, either in person or by a pleader of this Court, or agent duly authorized and instructed to show cause, if any, why execution shall not be granted.

Given under my hand and the seal of the Court this day of June 1908.

AZIZUR RAHMAN KHAN,
Munsarin.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 4, 1908.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 3rd January, 1908, and is hereby promulgated for general information:—

ACT NO. I OF 1908.

An Act further to amend the Legal Practitioners Act, 1879.

WHEREAS it is expedient further to amend the Legal Practitioners Act, 1879; It is hereby enacted as follows:—

1. This Act may be called the Legal Practitioners (Amendment) Act, 1908.

2. In section 4 of the Legal Practitioners Act, 1879, the following amendments shall be made, namely:—

(a) after the words "this Act" the words "or enrolled as a Pleader in the Chief Court of the Punjab under section 8 of this Act" shall be inserted; and

(b) after the words "no such Vakil" the words "or Pleader" shall be added.

3. To section 7 of the said Act the following shall be added, namely:—
Addition to section 7 of Act XVIII of 1879.

"Provided that, on the admission as a Pleader of any person who has been previously entered as a Vakil or Attorney on the roll of a High Court established by Royal Charter, the High Court may in its discretion issue to such person a certificate authorising him to practise permanently in the Courts and in the offices specified therein, and a certificate so issued shall not require to be renewed under this section."

4. To section 25 of the said Act the following shall be added, namely:—
Amendment of section 25 of Act XVIII of 1879.

"Provided also that no stamped paper shall be required in the case of a certificate whether original or renewed authorising, under section 7, a Vakil or Attorney on the roll of a High Court established by Royal Charter to practise as a Pleader."

5. In section 38 of the said Act, "7," shall be added after "5," and "25," after "16."
Amendment of section 38 of Act XVIII of 1879.

J. M. MACPHERSON,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 3rd January, 1908, and is hereby promulgated for general information:—

ACT NO. II OF 1908.

An Act further to amend the Indian Tariff Act, 1894.

1 of 1894. WHEREAS it is expedient further to amend the Indian Tariff Act, 1894; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Tariff (Amendment) Act, 1908.

2. In No. 1 of Schedule III of the Indian Tariff

Amendment of Act, 1894, as amended by VIII of Schedule III of Act the Indian Tariff Act (1894) VIII of 1894. Amendment Act, 1896, III of 1896. "annas 2" shall be substituted for "anna 1" in the fourth column as the rate of duty to be levied and collected per Imperial gallon or six quart bottles of ale, beer, porter, cider and other fermented liquors.

STATEMENT OF OBJECTS AND REASONS.

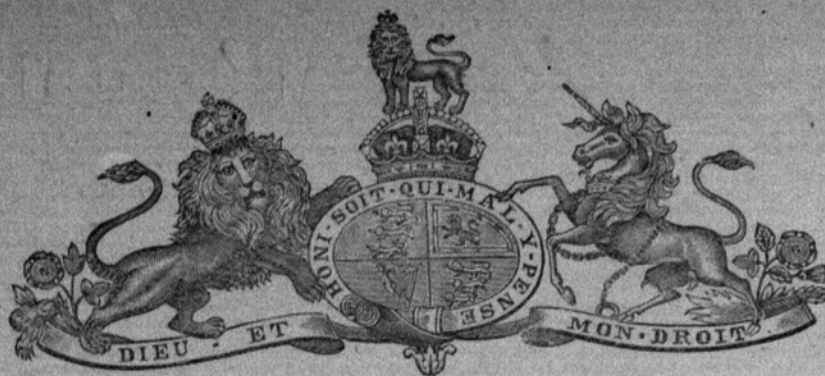
The present rate of duty on beer and other fermented liquors, whether imported or manufactured in the country, is one anna per gallon. The tariff rate has remained unaltered since 1863, and the excise duty since 1890, when it was first imposed. The rate of taxation is relatively inadequate, in view of the greatly enhanced taxation to which spirit, both country and imported, has in recent years been subjected. Moreover, as shown by the declared value of imports, a large quantity of the beer which comes into India from abroad pays less, at one anna a gallon, in proportion to its value than it would do under the ordinary tariff rate of 5 per cent *ad valorem*. Recently the Indian Excise Committee have recommended that the duty on beer and other fermented liquors should be raised from one anna to two annas per gallon, and the object of this Bill is to give effect to that recommendation.

E. N. BAKER.

* The 3rd January, 1908.

J. M. MACPHERSON,

Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 18, 1908.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 17th January, 1908, and is hereby promulgated for general information:—

ACT NO. III OF 1908.

An Act further to amend the law relating to Private Trusts and Trustees.

WHEREAS it is expedient further to amend

the law relating to Private Trusts and Trustees; It is hereby enacted as follows:—

1. This Act may be called the Indian Trusts (Amendment) Act, 1908.

Short title.

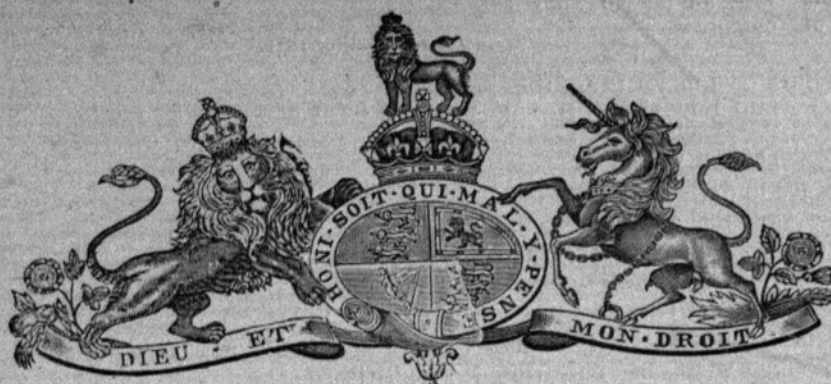
2. For clause (d) of section 20 of the Indian Trusts Act, 1882, the following clause shall be substituted, namely:—

Amendment of section 20, Act II of 1882.

“(d) in debentures or other securities for money issued, under the authority of any Act of a Legislature established in British India, by or on behalf of any municipal body, port trust or city improvement trust in any Presidency-town or in Rangoon Town, or by or on behalf of the trustees of the port of Karachi;”.

J. M. MACPHERSON,

Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 15, 1908.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 14th February, 1908, and is hereby promulgated for general information:—

ACT NO. IV OF 1908.

An Act further to amend the Coroners Act, 1871, and the Prisoners Act, 1900.

WHEREAS it is expedient further to amend the Coroners Act, 1871, and the Prisoners Act, 1900; It is hereby enacted as follows:—

1. This Act may be called the Coroners (Amendment) Act, 1908.

Short title.

2. In section 9 of the said Act, for the word "buried" the words "disposed of" shall be substituted.

Amendment of section 9, Act IV of 1871.

3. In section 11 of the said Act, for the words "where the first was insufficient" the words "where the Coroner considers it necessary or desirable in the interests of justice to take a further inquisition" shall be substituted.

Amendment of section 11, Act IV of 1871.

4. To section 15 of the said Act the following shall be added, namely:—

Addition of proviso to section 15, Act IV of 1871.

"Provided that the Coroner may, with the concurrence of a majority of the jury, dispense with a view of the body, if he is satisfied, from medical evidence or medical certificates, that no advantage would result from such viewing."

5. In section 17 of the said Act, for the words "Amendment of section 17, Act IV of 1871." and figures "Act No. XV of 1869 (to provide facilities for obtaining the evidence and appearance of prisoners and for service of process upon them)," the words and figures "Part IX of the Prisoners Act, 1900," shall be substituted.

6. After section 18 of the said Act the following shall be inserted, namely:—

Addition of new section 18A to Act IV of 1871.

"18A. Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Act, may be used as evidence in any inquest under this Act and in any subsequent inquiry, trial or other proceeding under the Code of Criminal Procedure, 1898."

V of 1898.

7. To section 21 of the said Act the following shall be added, namely:—

Addition to section 21, Act IV of 1871.

"and the whole, or such part thereof as to the Coroner seems fit, shall, in default of attendance by the jurors, be recoverable in the same manner as a fine imposed under section 31."

8. For section 25 of the said Act the following shall be substituted, namely:—
 Substitution of new section 25, Act IV of 1871.

"25. When the jury or a majority of the jury find that the death of the deceased person was occasioned by an act which amounts to an offence under any law in force in British India, the Coroner shall immediately after the inquest forward a copy of the inquisition, together with the names and addresses of the witnesses, to the Commissioner of Police."

9. For section 26 of the said Act the following shall be substituted, namely:—
 Substitution of new section 26, Act IV of 1871.

"26. The Coroner may also, where the verdict justifies him in so doing, issue his warrant for the apprehension of the person who is found to have caused the death of the deceased person, and send him forthwith to a Magistrate empowered to commit him for trial."

10. Section 27 of the said Act is hereby repealed.
 Repeal of section 27, Act IV of 1871.

11. In section 28 of the said Act, for the word "burial" the word "disposal" shall be substituted.
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12. In the Second Schedule of the said Act, for the words "on view of the body of A. B. then and there lying dead" the words "in the case of A. B. deceased" shall be substituted.
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13. In section 11 of the Prisoners Act, 1900, for the words "Justice of the Peace or Coroner" the words "or Justice of the Peace" shall be substituted.
 Amendment of Act III of 1900, section 11.

J. M. MACPHERSON,
 Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 21, 1908.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 21st March, 1908, and is hereby promulgated for general information:—

ACT NO. V OF 1908.

THE CODE OF CIVIL PROCEDURE, 1908.

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*The Code of Civil Procedure, 1908.**(Preliminary.)*

An Act to consolidate and amend the laws relating to the Procedure of the Courts of Civil Judicature.

WHEREAS it is expedient to consolidate and amend the laws relating to the procedure of the Courts of Civil Judicature; It is hereby enacted as follows:—

PRELIMINARY.

Short title, com-
mencement and extent. 1. (1) This Act may be cited as the Code of Civil Procedure, 1908.

(2) It shall come into force on the first day of January, 1909.

(3) This section and sections 155 to 158 extend to the whole of British India: the rest of the Code extends to the whole of British India, except the Scheduled Districts.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions. (1) "Code" includes rules:

(2) "decree" means the formal expression of an adjudication which, so far as regards the Court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final. It shall be deemed to include the rejection of a plaint and the determination of any question within section 47 or section 144, but shall not include—

(a) any adjudication from which an appeal lies as an appeal from an order, or

(b) any order of dismissal for default.

Explanation.—A decree is preliminary when further proceedings have to be taken before the suit can be completely disposed of. It is final when such adjudication completely disposes of the suit. It may be partly preliminary and partly final:

(3) "decree-holder" means any person in whose favour a decree has been passed or an order capable of execution has been made:

(4) "district" means the local limits of the jurisdiction of a principal Civil Court of original jurisdiction (hereinafter called a "District Court"), and includes the local limits of the ordinary original civil jurisdiction of a High Court:

(5) "foreign Court" means a Court situate beyond the limits of British India which has no authority in British India and is not established or continued by the Governor General in Council:

(6) "foreign judgment" means the judgment of a foreign Court:

(7) "Government Pleader" includes any officer appointed by the Local Government to perform all or any of the functions expressly imposed by this Code on the Government Pleader and also any pleader acting under the directions of the Government Pleader:

(8) "Judge" means the presiding officer of a Civil Court:

(9) "judgment" means the statement given by the Judge of the grounds of a decree or order:

(10) "judgment-debtor" means any person against whom a decree has been passed or an order capable of execution has been made:

(11) "legal representative" means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative character the person on whom the estate devolves on the death of the party so suing or sued:

(12) "mesne profits" of property means those profits which the person in wrongful possession of such property actually received or might with ordinary diligence have received therefrom, together with interest on such profits, but shall not include profits due to improvements made by the person in wrongful possession:

(13) "moveable property" includes growing crops:

(14) "order" means the formal expression of any decision of a Civil Court which is not a decree:

(15) "pleader" means any person entitled to appear and plead for another in Court, and includes an advocate, a vakil and an attorney of a High Court:

(16) "prescribed" means prescribed by rules:

(17) "public officer" means a person falling under any of the following descriptions, namely:—

(a) every Judge;

(b) every member of the Indian Civil Service;

(c) every commissioned or gazetted officer in the military or naval forces of His Majesty, including His Majesty's Indian Marine Service, while serving under the Government;

(d) every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order, in the Court, and every person especially authorized by a Court of Justice to perform any of such duties;

(e) every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

(f) every officer of the Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;

(g) every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of the Government, or to make any survey, assessment

The Code of Civil Procedure, 1908.
(Preliminary. Part I.—Suits in General.)

or contract on behalf of the Government, or to execute any revenue-process, or to investigate, or to report on, any matter affecting the pecuniary interests of the Government, or to make, authenticate or keep any document relating to the pecuniary interests of the Government, or to prevent the infraction of any law for the protection of the pecuniary interests of the Government; and

(h) every officer in the service or pay of the Government, or remunerated by fees or commission for the performance of any public duty:

(18) "rules" means rules and forms contained in the First Schedule or made under section 122 or section 125:

(19) "share in a corporation" shall be deemed to include stock, debenture stock, debentures or bonds: and

(20) "signed," save in the case of a judgment or decree, includes stamped.

3. For the purposes of this Code, the District Court is subordinate to the High Court, and every Civil Court of a grade inferior to that of a District Court and every Court of Small Causes is subordinate to the High Court and District Court.

4. (1) In the absence of any specific provision to the contrary, nothing in this Code shall be deemed to limit or otherwise affect any special or local law now in force or any special jurisdiction or power conferred, or any special form of procedure prescribed, by or under any other law for the time being in force.

(2) In particular and without prejudice to the generality of the proposition contained in sub-section (1), nothing in this Code shall be deemed to limit or otherwise affect any remedy which a landholder or landlord may have under any law for the time being in force for the recovery of rent of agricultural land from the produce of such land.

5. (1) Where any Revenue Courts are governed by the provisions of this Code in those matters of procedure upon which any special enactment applicable to them is silent, the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare that any portions of those provisions which are not expressly made applicable by this Code shall not apply to those Courts, or shall only apply to them with such modifications as the Local Government, with the sanction aforesaid, may prescribe.

(2) "Revenue Court" in sub-section (1) means a Court having jurisdiction under any local law to entertain suits or other proceedings relating to the rent, revenue or profits of land used for agricultural purposes, but does not include a Civil Court having original jurisdiction under this Code to try such suits or proceedings as being suits or proceedings of a civil nature.

6. Save in so far as is otherwise expressly provided, nothing herein contained shall operate to give any Court jurisdiction over suits the amount or value of the subject-matter of which exceeds the pecuniary limits (if any) of its ordinary jurisdiction.

7. The following provisions shall not extend to Courts constituted under the Provincial Small Causes Courts Act, 1887, IX of 1887, or to Courts exercising the jurisdiction of a Court of Small Causes under that Act, that is to say,—

(a) so much of the body of the Code as relates to—

(i) suits excepted from the cognizance of a Court of Small Causes;

(ii) the execution of decrees in such suits;

(iii) the execution of decrees against immoveable property; and

(b) the following sections, that is to say,—
section 9,
sections 91 and 92,
sections 94 and 95 so far as they relate to injunctions and interlocutory orders, and
sections 96 to 112 and 115.

8. Save as provided in sections 24, 38 to 41, 75, clauses (a), (b) and (c), 76, 77 and 155 to 158, and by the Presidency Small Cause Courts Act, 1882, the provisions in the body of this Code shall not extend to any suit or proceeding in any Court of Small Causes established in the towns of Calcutta, Madras and Bombay.

PART I.

SUITS IN GENERAL.

JURISDICTION OF THE COURTS AND RES JUDICATA.

9. The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred.

Explanation.—A suit in which the right to property or to an office is contested is a suit of a civil nature, notwithstanding that such right may depend entirely on the decision of questions as to religious rites or ceremonies.

10. No Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or between parties under whom they or any of them claim litigating under the same title where such suit is pending in the same or any other Court in British India having jurisdiction to grant the relief claimed, or in any Court

*The Code of Civil Procedure, 1908.**(Part I.—Suits in General.)*

beyond the limits of British India established or continued by the Governor General in Council and having like jurisdiction, or before His Majesty in Council.

Explanation.—The pendency of a suit in a foreign Court does not preclude the Courts in British India from trying a suit founded on the same cause of action.

11. No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.

Explanation I.—The expression "former suit" shall denote a suit which has been decided prior to the suit in question whether or not it was instituted prior thereto.

Explanation II.—For the purposes of this section, the competence of a Court shall be determined irrespective of any provisions as to a right of appeal from the decision of such Court.

Explanation III.—The matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.

Explanation IV.—Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.

Explanation V.—Any relief claimed in the plaint, which is not expressly granted by the decree, shall, for the purposes of this section, be deemed to have been refused.

Explanation VI.—Where persons litigate *bona fide* in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating.

12. Where a plaintiff is precluded by rules from instituting a further suit in respect of any particular cause of action, he shall not be entitled to institute a suit in respect of such cause of action in any Court to which this Code applies.

13. A foreign judgment shall be conclusive as to any matter thereby directly adjudicated upon between the same parties or between parties under whom they or any of

them claim litigating under the same title except—

- (a) where it has not been pronounced by a Court of competent jurisdiction;
- (b) where it has not been given on the merits of the case;
- (c) where it appears on the face of the proceedings to be founded on an incorrect view of international law or a refusal to recognise the law of British India in cases in which such law is applicable;
- (d) where the proceedings in which the judgment was obtained are opposed to natural justice;
- (e) where it has been obtained by fraud;
- (f) where it sustains a claim founded on a breach of any law in force in British India.

14. The Court shall presume, upon the production of any document purporting to be a certified copy of a foreign judgment, that such judgment was pronounced by a Court of competent jurisdiction, unless the contrary appears on the record; but such presumption may be displaced by proving want of jurisdiction.

PLACE OF SUING.

15. Every suit shall be instituted in the Court of the lowest grade competent to try it.

16. Subject to the pecuniary or other limitations prescribed by any law, suits—

- (a) for the recovery of immoveable property with or without rent or profits,
- (b) for the partition of immoveable property,
- (c) for foreclosure, sale or redemption in the case of a mortgage of or charge upon immoveable property,
- (d) for the determination of any other right to or interest in immoveable property,
- (e) for compensation for wrong to immoveable property,
- (f) for the recovery of moveable property actually under distraint or attachment,

shall be instituted in the Court within the local limits of whose jurisdiction the property is situate:

Provided that a suit to obtain relief respecting, or compensation for wrong to, immoveable property held by or on behalf of the defendant may, where the relief sought can be entirely

*The Code of Civil Procedure, 1908.**(Part I.—Suits in General.)*

obtained through his personal obedience, be instituted either in the Court within the local limits of whose jurisdiction the property is situate, or in the Court within the local limits of whose jurisdiction the defendant actually and voluntarily resides, or carries on business, or personally works for gain.

Explanation.—In this section "property" means property situate in British India.

17. Where a suit is to obtain relief respecting, or compensation for wrong to, immoveable property situate within the jurisdiction of different Courts, the suit may be instituted in any Court within the local limits of whose jurisdiction any portion of the property is situate:

Provided that, in respect of the value of the subject-matter of the suit, the entire claim is cognizable by such Court.

18. (1) Where it is alleged to be uncertain within the local limits of the jurisdiction of which of two or more Courts any immoveable property is situate, any one of those

Place of institution of suit where local limits of jurisdiction of Courts are uncertain.

Courts may, if satisfied that there is ground for the alleged uncertainty, record a statement to that effect and thereupon proceed to entertain and dispose of any suit relating to that property, and its decree in the suit shall have the same effect as if the property were situate within the local limits of its jurisdiction:

Provided that the suit is one with respect to which the Court is competent as regards the nature and value of the suit to exercise jurisdiction.

(2) Where a statement has not been recorded under sub-section (1), and an objection is taken before an appellate or revisional Court that a decree or order in a suit relating to such property was made by a Court not having jurisdiction where the property is situate, the appellate or revisional Court shall not allow the objection unless in its opinion there was, at the time of the institution of the suit, no reasonable ground for uncertainty as to the Court having jurisdiction with respect thereto and there has been a consequent failure of justice.

19. Where a suit is for compensation for

Suits for compensation for wrongs to person or moveables.

wrong done to the person or to moveable property, if the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain, within the local limits of the jurisdiction of another Court, the suit may be instituted at the option of the plaintiff in either of the said Courts.

Illustrations.

(a) A, residing in Delhi, beats B in Calcutta. B may sue A either in Calcutta or in Delhi.

(b) A, residing in Delhi, publishes in Calcutta statements defamatory of B. B may sue A either in Calcutta or in Delhi.

20. Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction—

Other suits to be instituted where defendants reside or cause of action arises.

(a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or

(b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or

(c) the cause of action, wholly or in part, arises.

Explanation I.—Where a person has a permanent dwelling at one place and also a temporary residence at another place, he shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary residence.

Explanation II.—A corporation shall be deemed to carry on business at its sole or principal office in British India or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.

Illustrations.

(a) A is a tradesman in Calcutta. B carries on business in Delhi. B, by his agent in Calcutta, buys goods of A and requests A to deliver them to the East Indian Railway Company. A delivers the goods accordingly in Calcutta. A may sue B for the price of the goods either in Calcutta, where the cause of action has arisen, or in Delhi, where B carries on business.

(b) A resides at Simla, B at Calcutta and C at Delhi. A, B and C being together at Benares, B and C make a joint promissory note payable on demand, and deliver it to A. A may sue B and C at Benares, where the cause of action arose. He may also sue them at Calcutta, where B resides, or at Delhi, where C resides; but in each of these cases, if the non-resident defendant objects, the suit cannot proceed without the leave of the Court.

21. No objection as to the place of suing shall be allowed by any appellate or revisional Court unless such objection was taken in the Court of first instance at the earliest possible opportunity and in all cases where issues are settled at or before such settlement, and unless there has been a consequent failure of justice.

*The Code of Civil Procedure 1908.**(Part 7.—Suits in General.)*

22. Where a suit may be instituted in any one of two or more Courts and is instituted in one of such Courts, any defendant, after notice to the other parties may, at the earliest possible opportunity and in all cases where issues are settled at or before such settlement, apply to have the suit transferred to another Court, and the Court to which such application is made, after considering the objections of the other parties (if any), shall determine in which of the several Courts having jurisdiction the suit shall proceed.

23. (1) Where the several Courts having jurisdiction are subordinate to the same Appellate Court, an application under section 22 shall be made to the Appellate Court.

(2) Where such Courts are subordinate to different Appellate Courts but to the same High Court, the application shall be made to the said High Court.

(3) Where such Courts are subordinate to different High Courts, the application shall be made to the High Court within the local limits of whose jurisdiction the Court in which the suit is brought is situate.

24. (1) On the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard, or of its own motion without such notice, the High Court or the District Court may at any stage—

- (a) transfer any suit, appeal or other proceeding pending before it for trial or disposal to any Court subordinate to it and competent to try or dispose of the same, or
- (b) withdraw any suit, appeal or other proceeding pending in any Court subordinate to it, and
 - (i) try or dispose of the same; or
 - (ii) transfer the same for trial or disposal to any Court subordinate to it and competent to try or dispose of the same; or
 - (iii) retransfer the same for trial or disposal to the Court from which it was withdrawn.

(2) Where any suit or proceeding has been transferred or withdrawn under sub-section (1), the Court which thereafter tries such suit may, subject to any special directions in the case of an order of transfer, either retry it or proceed from the point at which it was transferred or withdrawn.

(3) For the purposes of this section, Courts of Additional and Assistant Judges shall be deemed to be subordinate to the District Court.

(4) The Court trying any suit transferred or withdrawn under this section from a Court of Small Causes shall, for the purposes of such suit, be deemed to be a Court of Small Causes.

25. (1) Where any party to a suit, appeal or other proceeding pending in a High Court presided over by a single Judge objects to its being heard by him and the Judge is satisfied that there are reasonable grounds for the objection, he shall make a report to the Governor General in Council, who may, by notification in the Gazette of India, transfer such suit, appeal or proceeding to any other High Court.

(2) The law applicable to any suit, appeal or proceeding so transferred shall be the law which the Court in which the suit, appeal or proceeding was originally instituted ought to have applied to such case.

INSTITUTION OF SUITS.

26. Every suit shall be instituted by the presentation of a plaint or in such other manner as may be prescribed.

SUMMONS AND DISCOVERY.

27. Where a suit has been duly instituted, a summons may be issued to the defendant to appear and answer the claim and may be served in manner prescribed.

28. (1) A summons may be sent for service in another province to such Court and in such manner as may be prescribed by rules in force in that province.

(2) The Court to which such summons is sent shall, upon receipt thereof, proceed as if it had been issued by such Court and shall then return the summons to the Court of issue together with the record (if any) of its proceedings with regard thereto.

29. Summonses issued by any Civil or Revenue Court situate beyond the limits of British India may be sent to the Courts in British India and served as if they had been issued by such Courts:

Provided that the Courts issuing such summonses have been established or continued by the authority of the Governor General in Council, or that the Governor General in Council has, by notification in the Gazette of India, declared the provisions of this section to apply to such Courts.

*The Code of Civil Procedure 1908.**(Part I.—Suits in General. Part II.—Execution.)*

30. Subject to such conditions and limitations as may be prescribed, the Court may, at any time, either of its own motion or on the application of any party,—

Power to order discovery and the like.

- (a) make such orders as may be necessary or reasonable in all matters relating to the delivery and answering of interrogatories, the admission of documents and facts, and the discovery, inspection, production, impounding and return of documents or other material objects producible as evidence;
- (b) issue summonses to persons whose attendance is required either to give evidence or to produce documents or such other objects as aforesaid;
- (c) order any fact to be proved by affidavit.

31. The provisions in sections 27, 28 and 29 shall apply to summonses to give evidence or to produce documents or other material objects.

32. The Court may compel the attendance of any person to whom a summons has been issued under section 30 and for that purpose may—

- (a) issue a warrant for his arrest;
- (b) attach and sell his property;
- (c) impose a fine upon him not exceeding five hundred rupees;
- (d) order him to furnish security for his appearance and in default commit him to the civil prison.

JUDGMENT AND DECREE.

33. The Court, after the case has been heard, shall pronounce judgment, and on such judgment a decree shall follow.

INTEREST.

34. (1) Where and in so far as a decree is for the payment of money, the Court may, in the decree, order interest at such rate as the Court deems reasonable to be paid on the principal sum adjudged, from the date of the suit to the date of the decree, in addition to any interest adjudged on such principal sum for any period prior to the institution of the suit, with further interest at such rate as the Court deems reasonable on the aggregate sum so adjudged, from the date of the decree to the date of payment, or to such earlier date as the Court thinks fit.

(2) Where such a decree is silent with respect to the payment of further interest on such aggregate sum as aforesaid from the date of the decree to the date of payment or other earlier date, the Court shall be deemed to have refused such interest, and a separate suit therefor shall not lie.

COSTS.

35. (1) Subject to such conditions and limitations as may be prescribed, and to the provisions of any

law for the time being in force, the costs of and incident to all suits shall be in the discretion of the Court, and the Court shall have full power to determine by whom or out of what property and to what extent such costs are to be paid, and to give all necessary directions for the purposes aforesaid. The fact that the Court has no jurisdiction to try the suit shall be no bar to the exercise of such powers.

(2) Where the Court directs that any costs shall not follow the event, the Court shall state its reasons in writing.

(3) The Court may give interest on costs at any rate not exceeding six per cent. per annum, and such interest shall be added to the costs and shall be recoverable as such.

**PART II.
EXECUTION.****GENERAL.**

35. The provisions of this Code relating to the execution of decrees shall, so far as they are applicable, be deemed to apply to the execution of orders.

37. The expression "Court which passed a decree", or words to that effect, shall, in relation to the execution of decrees, unless there is anything repugnant in the subject or context, be deemed to include,—

- (a) where the decree to be executed has been passed in the exercise of appellate jurisdiction, the Court of first instance, and
- (b) where the Court of first instance has ceased to exist or to have jurisdiction to execute it, the Court which, if the suit wherein the decree was passed was instituted at the time of making the application for the execution of the decree, would have jurisdiction to try such suit.

COURTS BY WHICH DECREES MAY BE EXECUTED.

38. A decree may be executed either by the Court which passed it, or by the Court to which it is sent for execution.

39. (1) The Court which passed a decree may, on the application of the decree-holder, send it for execution to another Court,—

- (a) if the person against whom the decree is passed actually and voluntarily resides or carries on business, or personally works for gain, within the local limits of the jurisdiction of such other Court, or
- (b) if such person has not property within the local limits of the jurisdiction of the Court which passed the decree sufficient to satisfy such decree and

*The Code of Civil Procedure, 1908.**(Part II.—Execution.)*

has property within the local limits of the jurisdiction of such other Court, or

(c) if the decree directs the sale or delivery of immoveable property situate outside the local limits of the jurisdiction of the Court which passed it, or

(d) if the Court which passed the decree considers for any other reason, which it shall record in writing, that the decree should be executed by such other Court.

(2) The Court which passed a decree may of its own motion send it for execution to any subordinate Court of competent jurisdiction.

40. Where a decree is sent for execution in another province, it shall be sent to such Court and executed in such manner as may be prescribed by rules in force in that province.

41. The Court to which a decree is sent for execution shall certify to the Court which passed it the fact of such execution, or where the former Court fails to execute the same the circumstances attending such failure.

42. The Court executing a decree sent to it shall have the same powers in executing such decree as if it had been passed by itself. All persons disobeying or obstructing the execution of the decree shall be punishable by such Court in the same manner as if it had passed the decree. And its order in executing such decree shall be subject to the same rules in respect of appeal as if the decree had been passed by itself.

43. Any decree passed by a Civil Court established in any part of British India to which the provisions relating to execution do not extend, or by any Court established or continued by the authority of the Governor General in Council in the territories of any foreign Prince or State, may, if it cannot be executed within the jurisdiction of the Court by which it was passed, be executed in manner herein provided within the jurisdiction of any Court in British India.

44. The Governor General in Council may, by notification in the Gazette of India, declare that the decrees of any Civil or Revenue Courts situate in the territories of any native Prince or State in alliance with His Majesty and not established or continued by the authority of the Governor General in Council, or any class of such decrees,

may be executed in British India as if they had been passed by the Courts of British India.

45. So much of the foregoing sections of this Part as empowers a Court to send a decree for execution to another Court shall be construed as empowering a Court in British India to send a decree for execution to any Court established or continued by the authority of the Governor General in Council in the territories of any foreign Prince or State to which the Governor General in Council has, by notification in the Gazette of India, declared this section to apply.

46. (1) Upon the application of the decree-holder the Court which passed the decree may, whenever it thinks fit, issue a precept to any other Court which would be competent to execute such decree to attach any property belonging to the judgment-debtor and specified in the precept.

(2) The Court to which a precept is sent shall proceed to attach the property in the manner prescribed in regard to the attachment of property in execution of a decree:

Provided that no attachment under a precept shall continue for more than two months unless the period of attachment is extended by an order of the Court which passed the decree or unless before the determination of such attachment the decree has been transferred to the Court by which the attachment has been made and the decree-holder has applied for an order for the sale of such property.

QUESTIONS TO BE DETERMINED BY COURT EXECUTING DECREE.

47. (1) All questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution, discharge or satisfaction of the decree, shall be determined by the Court executing the decree and not by a separate suit.

(2) The Court may, subject to any objection as to limitation or jurisdiction, treat a proceeding under this section as a suit or a suit as a proceeding and may, if necessary, order payment of any additional court-fees.

(3) Where a question arises as to whether any person is or is not the representative of a party, such question shall, for the purposes of this section, be determined by the Court.

Explanation.—For the purposes of this section, a plaintiff whose suit has been dismissed and a defendant against whom a suit has been dismissed, are parties to the suit.

LIMIT OF TIME FOR EXECUTION.

48. (1) Where an application to execute a decree not being a decree granting an injunction has been made, no order for the execution of the same decree shall be made upon any fresh

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application presented after the expiration of twelve years from—

- (a) the date of the decree sought to be executed, or,
- (b) where the decree or any subsequent order directs any payment of money or the delivery of any property to be made at a certain date or at recurring periods, the date of the default in making the payment or delivery in respect of which the applicant seeks to execute the decree.

(2) Nothing in this section shall be deemed—

- (a) to preclude the Court from ordering the execution of a decree upon an application presented after the expiration of the said term of twelve years, where the judgment-debtor has, by fraud or force, prevented the execution of the decree at some time within twelve years immediately before the date of the application; or

- (b) to limit or otherwise affect the operation of article 180 of the second schedule to the Indian Limitation Act, 1877.

XV of 1877.

TRANSFEREES AND LEGAL REPRESENTATIVES.

49. Every transferee of a decree shall hold the same subject to the equities (if any) which the judgment-debtor might have enforced against the original decree-holder.

50. (1) Where a judgment-debtor dies before the decree has been fully satisfied, the holder of the decree may apply to the Court which passed it to execute the same against the legal representative of the deceased.

(2) Where the decree is executed against such legal representative, he shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of; and, for the purpose of ascertaining such liability, the Court executing the decree may, of its own motion or on the application of the decree-holder, compel such legal representative to produce such accounts as it thinks fit.

PROCEDURE IN EXECUTION.

51. Subject to such conditions and limitations as may be prescribed, the Court may, on the application of the decree-holder, order execution of the decree—

- (a) by delivery of any property specifically decreed;
- (b) by attachment and sale or by sale without attachment of any property;

(c) by arrest and detention in prison;

(d) by appointing a receiver; or

(e) in such other manner as the nature of the relief granted may require.

52. (1) Where a decree is passed against a party as the legal representative of a deceased person, and the decree is for the payment of money out of the property of the deceased, it may be executed by the attachment and sale of any such property.

(2) Where no such property remains in the possession of the judgment-debtor and he fails to satisfy the Court that he has duly applied such property of the deceased as is proved to have come into his possession, the decree may be executed against the judgment-debtor to the extent of the property in respect of which he has failed so to satisfy the Court in the same manner as if the decree had been against him personally.

53. For the purposes of section 50 and section 52, property in the hands of a son or other descendant which is liable under Hindu law for the payment of the debt of a deceased ancestor, in respect of which a decree has been passed, shall be deemed to be property of the deceased which has come to the hands of the son or other descendant as his legal representative.

54. Where the decree is for the partition of an undivided estate assessed to the payment of revenue to the Government, or for the separate possession of a share of such an estate, the partition of the estate or the separation of the share shall be made by the Collector or any gazetted subordinate of the Collector deputed by him in this behalf, in accordance with the law (if any) for the time being in force relating to the partition, or the separate possession of shares, of such estates.

ARREST AND DETENTION.

55. (1) A judgment-debtor may be arrested in execution of a decree at any hour and on any day, and shall, as soon as practicable, be brought before the Court, and his detention may be in the civil prison of the district in which the Court ordering the detention is situate, or, where such civil prison does not afford suitable accommodation, in any other place which the Local Government may appoint for the detention of persons ordered by the Courts of such district to be detained:

Provided, firstly, that, for the purpose of making an arrest under this section, no dwelling-house shall be entered after sunset and before sunrise:

Provided, secondly, that no outer door of a dwelling-house shall be broken open unless such dwelling-house is in the occupancy of the judgment-debtor and he refuses or in any way prevents access thereto, but when

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the officer authorized to make the arrest has duly gained access to any dwelling-house, he may break open the door of any room in which he has reason to believe the judgment-debtor is to be found:

Provided, thirdly, that, if the room is in the actual occupancy of a woman who is not the judgment-debtor and who according to the customs of the country does not appear in public, the officer authorized to make the arrest shall give notice to her that she is at liberty to withdraw, and, after allowing a reasonable time for her to withdraw and giving her reasonable facility for withdrawing, may enter the room for the purpose of making the arrest:

Provided, fourthly, that, where the decree in execution of which a judgment-debtor is arrested, is a decree for the payment of money and the judgment-debtor pays the amount of the decree and the costs of the arrest to the officer arresting him, such officer shall at once release him.

(2) The Local Government may, by notification in the local official Gazette, declare that any person or class of persons whose arrest might be attended with danger or inconvenience to the public shall not be liable to arrest in execution of a decree otherwise than in accordance with such procedure as may be prescribed by the Local Government in this behalf.

(3) Where a judgment-debtor is arrested in execution of a decree for the payment of money and brought before the Court, the Court shall inform him that he may apply to be declared an insolvent, and that he will be discharged if he has not committed any act of bad faith regarding the subject of the application and if he complies with the provisions of the law of insolvency for the time being in force.

(4) Where a judgment-debtor expresses his intention to apply to be declared an insolvent and furnishes security, to the satisfaction of the Court, that he will within one month so apply, and that he will appear, when called upon, in any proceeding upon the application or upon the decree in execution of which he was arrested, the Court shall release him from arrest, and, if he fails so to apply and to appear, the Court may either direct the security to be realized or commit him to the civil prison in execution of the decree.

56. Notwithstanding anything in this Part, the Court shall not order the arrest or detention in the civil prison of a woman in execution of a decree for the payment of money.

Prohibition of arrest or detention of women in execution of decree for money.

57. The Local Government may fix scales, Subsistence-allowance, graduated according to rank, race and nationality, of monthly allowances payable for the subsistence of judgment-debtors.

58. (1) Every person detained in the civil prison in execution of a decree shall be so detained,—

- (a) where the decree is for the payment of a sum of money exceeding fifty rupees, for a period of six months, and,
- (b) in any other case, for a period of six weeks:

Provided that he shall be released from such detention before the expiration of the said period of six months or six weeks, as the case may be,—

- (i) on the amount mentioned in the warrant for his detention being paid to the officer in charge of the civil prison, or
- (ii) on the decree against him being otherwise fully satisfied, or
- (iii) on the request of the person on whose application he has been so detained, or
- (iv) on the omission by the person, on whose application he has been so detained, to pay subsistence-allowance:

Provided, also, that he shall not be released from such detention under clause (ii) or clause (iii), without the order of the Court.

(2) A judgment-debtor released from detention under this section shall not merely by reason of his release be discharged from his debt, but he shall not be liable to be re-arrested under the decree in execution of which he was detained in the civil prison.

59. (1) At any time after a warrant for the arrest of a judgment-debtor has been issued the Court may cancel it on the ground of his serious illness.

(2) Where a judgment-debtor has been arrested, the Court may release him if, in its opinion, he is not in a fit state of health to be detained in the civil prison.

(3) Where a judgment-debtor has been committed to the civil prison, he may be released therefrom—

- (a) by the Local Government, on the ground of the existence of any infectious or contagious disease, or

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(b) by the committing Court, or any Court to which that Court is subordinate, on the ground of his suffering from any serious illness.

(4) A judgment-debtor released under this section may be re-arrested, but the period of his detention in the civil prison shall not in the aggregate exceed that prescribed by section 58.

ATTACHMENT.

60. (1) The following property is liable to attachment and sale in execution of a decree, namely, lands, houses or other buildings, goods, money, banknotes, cheques, bills of exchange, hundis, promissory notes, Government securities, bonds or other securities for money, debts, shares in a corporation and, save as hereinafter mentioned, all other saleable property, moveable or immoveable, belonging to the judgment-debtor, or over which, or the profits of which, he has a disposing power which he may exercise for his own benefit, whether the same be held in the name of the judgment-debtor or by another person in trust for him or on his behalf :

Provided that the following particulars shall not be liable to such attachment or sale, namely :—

(a) the necessary wearing-apparel, cooking vessels, beds and bedding of the judgment-debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman ;

(b) tools of artisans, and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such, and such portion of agricultural produce or of any class of agricultural produce as may have been declared to be free from liability under the provisions of the next following section ;

(c) houses and other buildings (with the materials and the sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment) belonging to an agriculturist and occupied by him ;

(d) books of account ;

(e) a mere right to sue for damages ;

(f) any right of personal service ;

(g) stipends and gratuities allowed to pensioners of the Government, or payable out of any service family pension fund notified in the Gazette of India by the Governor General in Council in this behalf, and political pensions ;

(h) allowances (being less than salary) of any public officer or of any servant of a railway company or local authority while absent from duty ;

(i) the salary or allowances equal to salary of any such public officer or servant as is referred to in clause (h), while on duty, to the extent of—

(i) the whole of the salary, where the salary does not exceed twenty rupees monthly ;

(ii) twenty rupees monthly, where the salary exceeds twenty rupees and does not exceed forty rupees monthly ; and

(iii) one moiety of the salary in any other case ;

(j) the pay and allowances of persons to whom the Indian Articles of War V of 1869. apply ;

(k) all compulsory deposits and other sums in or derived from any fund to which the Provident Funds Act, 1897, for the time being applies in so far as they are declared by the said Act not to be liable to attachment ; IX of 1897.

(l) the wages of labourers and domestic servants whether payable in money or in kind ;

(m) an expectancy of succession by survivorship or other merely contingent or possible right or interest ;

(n) a right to future maintenance ;

(o) any allowance declared by any law passed under the Indian Councils Acts, 1861 and 1892, to be exempt from liability to attachment or sale in execution of a decree ; and, 24 & 25 Vict., c. 67. 55 & 56

(p) where the judgment-debtor is a person liable for the payment of land-revenue, any moveable property which, under any law for the time being applicable to him, is exempt from sale for the recovery of an arrear of such revenue. Vict., c. 14

Explanation.—The particulars mentioned in clauses (g), (h), (i), (j), (l) and (o) are exempt from attachment or sale whether before or after they are actually payable.

(2) Nothing in this section shall be deemed—

(a) to exempt houses and other buildings (with the materials and the sites thereof and the lands immediately

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appurtenant thereto and necessary for their enjoyment) from attachment or sale in execution of decrees for rent of any such house, building, site or land, or

(b) to affect the provisions of the Army Act or of any similar law for the time being in force.

61. The Local Government, with the previous sanction of the Governor General in Council, may, by general or special order published in the local official Gazette, declare that such portion of agricultural produce, or of any class of agricultural produce, as may appear to the Local Government to be necessary for the purpose of providing until the next harvest for the due cultivation of the land and for the support of the judgment-debtor and his family shall, in the case of all agriculturists or of any class of agriculturists, be exempted from liability to attachment or sale in execution of a decree.

62. (1) No person executing any process under this Code directing or authorizing seizure of moveable property shall enter any dwelling-house after sunset and before sunrise.

(2) No outer door of a dwelling-house shall be broken open unless such dwelling-house is in the occupancy of the judgment-debtor and he refuses or in any way prevents access thereto, but when the person executing any such process has duly gained access to any dwelling-house, he may break open the door of any room in which he has reason to believe any such property to be.

(3) Where a room in a dwelling-house is in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the person executing the process shall give notice to such woman that she is at liberty to withdraw; and, after allowing reasonable time for her to withdraw and giving her reasonable facility for withdrawing, he may enter such room for the purpose of seizing the property, using at the same time every precaution, consistent with these provisions, to prevent its clandestine removal.

63. (1) Where property not in the custody of any Court is under attachment in execution of decrees of more Courts than one, the Court which shall receive or realize such property and shall determine any claim thereto and any objection to the attachment thereof shall be the Court of highest grade, or, where there is no difference in grade between such Courts, the Court under whose decree the property was first attached.

(2) Nothing in this section shall be deemed to invalidate any proceeding taken by a Court executing one of such decrees.

64. Where an attachment has been made, any private alienation of private transfer or delivery of the property attached or of any interest therein and any payment to the judgment-debtor of

any debt, dividend or other monies contrary to such attachment, shall be void as against all claims enforceable under the attachment.

Explanation.—For the purposes of this section, claims enforceable under an attachment include claims for the rateable distribution of assets.

SALE.

65. Where immoveable property is sold in execution of a decree and such sale has become absolute, the property shall be deemed to have vested in the purchaser from the time when the property is sold and not from the time when the sale becomes absolute.

66. (1) No suit shall be maintained against any person claiming title under a purchase certified by the Court in such manner as may be prescribed on the ground that the purchase was made on behalf of the plaintiff or on behalf of some one through whom the plaintiff claims.

(2) Nothing in this section shall bar a suit to obtain a declaration that the name of any purchaser certified as aforesaid was inserted in the certificate fraudulently or without the consent of the real purchaser, or interfere with the right of a third person to proceed against that property, though ostensibly sold to the certified purchaser, on the ground that it is liable to satisfy a claim of such third person against the real owner.

67. The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, make rules for any local area imposing conditions in respect of the sale of any class of interests in land in execution of decrees for the payment of money, where such interests are so uncertain or undetermined as, in the opinion of the Local Government, to make it impossible to fix their value.

DELEGATION TO COLLECTOR OF POWER TO EXECUTE DECREES AGAINST IMMOVEABLE PROPERTY.

68. The Local Government may, with the previous sanction of the Governor General in Council, declare, by notification in the local official Gazette, that in any local area the execution of decrees in cases in which a Court has ordered any immoveable property to be sold, or the execution of any particular kind of such decrees, or the execution of decrees ordering the sale of any particular kind of, or interest in, immoveable property, shall be transferred to the Collector.

69. The provisions set forth in the Third Schedule shall apply to all cases in which the execution of a decree has been transferred under the last preceding section.

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70. (1) The Local Government may make rules consistent with the aforesaid provisions—
Rules of procedure.

- (a) for the transmission of the decree from the Court to the Collector, and for regulating the procedure of the Collector and his subordinates in executing the same, and for retransmitting the decree from the Collector to the Court;
- (b) conferring upon the Collector or any gazetted subordinate of the Collector all or any of the powers which the Court might exercise in the execution of the decree if the execution thereof had not been transferred to the Collector;
- (c) providing for orders made by the Collector or any gazetted subordinate of the Collector, or orders made on appeal with respect to such orders, being subject to appeal to, and revision by, superior revenue-authorities as nearly as may be as the orders made by the Court, or orders made on appeal with respect to such orders, would be subject to appeal to, and revision by, appellate or revisional Courts under this Code or other law for the time being in force if the decree had not been transferred to the Collector.

(2) A power conferred by rules made under Jurisdiction of Civil sub-section (1) upon the Courts barred. Collector or any gazetted subordinate of the Collector, or upon any appellate or revisional authority, shall not be exercisable by the Court or by any Court in exercise of any appellate or revisional jurisdiction which it has with respect to decrees or orders of the Court.

71. In executing a decree transferred to the Collector under section 68 the Collector and his subordinates shall be deemed to be acting judicially.

72. (1) Where in any local area in which no declaration under section 68 is in force the Collector may stay public sale of land. Where Court may authorize Collector to stay public sale of land. property attached consists of land or of a share in land, and the Collector represents to the Court that the public sale of the land or share is objectionable and that satisfaction of the decree may be made within a reasonable period by a temporary alienation of the land or share, the Court may authorize the Collector to provide for such satisfaction in the manner recommended by him instead of proceeding to a sale of the land or share.

(2) In every such case the provisions of sections 69 to 71 and of any rules made in pursuance thereof shall apply so far as they are applicable.

DISTRIBUTION OF ASSETS.

73. (1) Where assets are held by a Court and more persons than one have, before the receipt of such assets, made application to the Court for the execution of decrees for the payment of

money passed against the same judgment-debtor and have not obtained satisfaction thereof, the assets, after deducting the costs of realization, shall be rateably distributed among all such persons:

Provided as follows:—

- (a) where any property is sold subject to a mortgage or charge, the mortgagee or incumbrancer shall not be entitled to share in any surplus arising from such sale;
- (b) where any property liable to be sold in execution of a decree is subject to a mortgage or charge, the Court may, with the consent of the mortgagee or incumbrancer, order that the property be sold free from the mortgage or charge, giving to the mortgagee or incumbrancer the same interest in the proceeds of the sale as he had in the property sold;
- (c) where any immoveable property is sold in execution of a decree ordering its sale for the discharge of an incumbrance thereon, the proceeds of sale shall be applied—
 first, in defraying the expenses of the sale;
 secondly, in discharging the amount due under the decree;
 thirdly, in discharging the interest and principal monies due on subsequent incumbrances (if any); and,
 fourthly, rateably among the holders of decrees for the payment of money against the judgment-debtor, who have, prior to the sale of the property, applied to the Court which passed the decree ordering such sale for execution of such decrees, and have not obtained satisfaction thereof.

(2) Where all or any of the assets liable to be rateably distributed under this section are paid to a person not entitled to receive the same, any person so entitled may sue such person to compel him to refund the assets.

(3) Nothing in this section affects any right of the Government.

RESISTANCE TO EXECUTION.

74. Where the Court is satisfied that the holder of a decree for the possession of immoveable property or that the purchaser of immoveable property sold in execution of a decree has been resisted or obstructed in obtaining possession of the property by the judgment-debtor or some person on his behalf and that such resistance or obstruction was without any just cause, the Court may, at the instance of the decree-holder or purchaser, order the judgment-debtor or such other person to be detained in the civil prison for a term which may extend to thirty days and may further direct that the decree-holder or purchaser be put into possession of the property.

*The Code of Civil Procedure, 1908.**(Part III.—Incidental Proceedings. Part IV.—Suits in Particular Cases.)***PART III.****INCIDENTAL PROCEEDINGS.****COMMISSIONS.**

75. Subject to such conditions and limitations
Power of Court to as may be prescribed, the
issue commissions. Court may issue a commis-
sion—

- (a) to examine any person;
- (b) to make a local investigation;
- (c) to examine or adjust accounts; or
- (d) to make a partition.

76. (1) A commission for the examination of
Commission to an- any person may be issued
other Court. to any Court (not being
a High Court) situate in a province other than
the province in which the Court of issue is
situate and having jurisdiction in the place in
which the person to be examined resides.

(2) Every Court receiving a commission for
the examination of any person under sub-section
(1) shall examine him or cause him to be ex-
amined pursuant thereto, and the commission,
when it has been duly executed, shall be returned
together with the evidence taken under it to the
Court from which it was issued, unless the order
for issuing the commission has otherwise
directed, in which case the commission shall be
returned in terms of such order.

77. In lieu of issuing a commission the Court
may issue a letter of request
Letter of request. to examine a witness resid-
ing at any place not within British India.

78. The provisions as to the execution and
Commissions issued return of commissions for
by foreign Courts. the examination of witnesses
shall apply to commissions issued by—

- (a) Courts situate beyond the limits of
British India and established or con-
tinued by the authority of His
Majesty or of the Governor General
in Council, or
- (b) Courts situate in any part of the British
Empire other than British India, or
- (c) Courts of any foreign country for the
time being in alliance with His
Majesty.

PART IV.**SUITS IN PARTICULAR CASES.****SUITS BY OR AGAINST THE GOVERNMENT OR
PUBLIC OFFICERS IN THEIR OFFICIAL
CAPACITY.**

79. (1) Suits by or against the Government
shall be instituted by or
Suits by or against against the Secretary of
Government. State for India in Council.

(2) Nothing in this section shall be deemed
to limit or otherwise affect any information ex-
hibited by the Advocate General in exercise of
the power declared by section 111 of the East
India Company Act, 1813.

80. No suit shall be instituted against the
Secretary of State for
Notice. India in Council, or against

a public officer in respect of any act purporting to
be done by such public officer in his official capa-
city, until the expiration of two months next after
notice in writing has been, in the case of the
Secretary of State in Council, delivered to, or
left at the office of, a Secretary to the Local
Government or the Collector of the district, and,
in the case of a public officer, delivered to him
or left at his office, stating the cause of action,
the name, description and place of residence of
the plaintiff and the relief which he claims;
and the plaint shall contain a statement that
such notice has been so delivered or left.

81. In a suit instituted against a public officer
Exemption from in respect of any act pur-
arrest and personal porting to be done by him
appearance. in his official capacity—

(a) the defendant shall not be liable to arrest
nor his property to attachment other-
wise than in execution of a decree,
and,

(b) where the Court is satisfied that the
defendant cannot absent himself from
his duty without detriment to the
public service, it shall exempt him
from appearing in person.

82. (1) Where the decree is against the
Secretary of State for India
Execution of decree. in Council or against a
public officer in respect of any such act as afore-
said, a time shall be specified in the decree within
which it shall be satisfied; and, if the decree
is not satisfied within the time so specified, the
Court shall report the case for the orders of the
Local Government.

(2) Execution shall not be issued on any such
decree unless it remains unsatisfied for the
period of three months computed from the date
of such report.

**SUITS BY ALIENS AND BY OR AGAINST FOREIGN
AND NATIVE RULERS.**

83. (1) Alien enemies residing in British
India with the permission
When aliens may sue. of the Governor General in
Council, and alien friends, may sue in the Courts
of British India, as if they were subjects of His
Majesty.

(2) No alien enemy residing in British India
without such permission, or residing in a foreign
country, shall sue in any of such Courts.

Explanation.—Every person residing in a
foreign country the Government of which is at
war with the United Kingdom of Great Britain
and Ireland, and carrying on business in that
country without a license in that behalf under
the hand of one of His Majesty's Secretaries of
State or of a Secretary to the Government of
India, shall, for the purpose of sub-section (2), be
deemed to be an alien enemy residing in a foreign
country.

*The Code of Civil Procedure, 1908.**(Part IV.—Suits in Particular Cases. Part V.—Special Proceedings.)*

84. (1) A foreign State may sue in any Court of British India:
When foreign States may sue.

Provided that such State has been recognized by His Majesty or by the Governor General in Council.

Provided, also, that the object of the suit is to enforce a private right vested in the head of such State or in any officer of such State in his public capacity.

(2) Every Court shall take judicial notice of the fact that a foreign State has or has not been recognized by His Majesty or by the Governor General in Council.

85. (1) Persons specially appointed by order of the Government at the request of any Sovereign Prince or Ruling Chief, whether in subordinate alliance with the British

Government or otherwise, and whether residing within or without British India, or at the request of any person competent, in the opinion of the Government, to act on behalf of such Prince or Chief, to prosecute or defend any suit on his behalf, shall be deemed to be the recognized agents by whom appearances, acts and applications under this Code may be made or done on behalf of such Prince or Chief.

(2) An appointment under this section may be made for the purpose of a specified suit or of several specified suits, or for the purpose of all such suits as it may from time to time be necessary to prosecute or defend on behalf of the Prince or Chief.

(3) A person appointed under this section may authorize or appoint persons to make appearances and applications and do acts in any such suit or suits as if he were himself a party thereto.

86. (1) Any such Prince or Chief, and any ambassador or envoy of a foreign State, may, with the consent of the Governor General in Council, certified by the signature of a Secretary to the Government of India, but not without such consent, be sued in any competent Court.

(2) Such consent may be given with respect to a specified suit or to several specified suits, or with respect to all suits of any specified class or classes, and may specify, in the case of any suit or class of suits, the Court in which the Prince, Chief, ambassador or envoy may be sued; but it shall not be given unless it appears to the Government that the Prince, Chief, ambassador or envoy—

- (a) has instituted a suit in the Court against the person desiring to sue him, or
- (b) by himself or another trades within the local limits of the jurisdiction of the Court, or
- (c) is in possession of immoveable property situate within those limits and is to be sued with reference to such property or for money charged thereon.

(3) No such Prince, Chief, ambassador or envoy shall be arrested under this Code, and, except with the consent of the Governor General in Council certified as aforesaid, no decree shall be executed against the property of any such Prince, Chief, ambassador or envoy.

(4) The Governor General in Council may, by notification in the Gazette of India, authorize a Local Government and any Secretary to that Government to exercise, with respect to any Prince, Chief, ambassador or envoy named in the notification, the functions assigned by the foregoing sub-sections to the Governor General in Council and a Secretary to the Government of India, respectively.

(5) A person may, as a tenant of immoveable property, sue, without such consent as is mentioned in this section, a Prince, Chief, ambassador or envoy from whom he holds or claims to hold the property.

87. A Sovereign Prince or Ruling Chief may sue, and shall be sued, in the name of his State:

Provided that in giving the consent referred to in the foregoing section the Governor General in Council or the Local Government, as the case may be, may direct that any such Prince or Chief shall be sued in the name of an agent or in any other name.

INTERPLEADER.

88. Where two or more persons claim adversely to one another the same debt, sum of money or other property, moveable or immoveable, from another person, who claims no interest therein other than for charges or costs and who is ready to pay or deliver it to the rightful claimant, such other person may institute a suit of interpleader against all the claimants for the purpose of obtaining a decision as to the person to whom the payment or delivery shall be made, and of obtaining indemnity for himself:

Provided that where any suit is pending in which the rights of all parties can properly be decided, no such suit of interpleader shall be instituted.

PART V.

SPECIAL PROCEEDINGS.

ARBITRATION.

89. (1) Save in so far as is otherwise provided by the Indian Arbitration Act, 1899, or by any other law for the time being in force, all references to arbitration whether by an order in a suit or otherwise, and all proceedings thereunder, shall be governed by the provisions contained in the Second Schedule.

(2) The provisions of the Second Schedule shall not affect any arbitration pending at the commencement of this Code, but shall apply

*The Code of Civil Procedure 1908.**(Part V.—Special Proceedings. Part VI.—Supplemental Proceedings.)*

to any arbitration after that date under any agreement or reference made before the commencement of this Code.

SPECIAL CASE.

90. Where any persons agree in writing to state a case for the opinion of the Court, then the Court shall try and determine the same in the manner prescribed.

SUITS RELATING TO PUBLIC MATTERS.

91. (1) In the case of a public nuisance the Advocate General, or two or more persons having obtained the consent in writing of the Advocate General, may institute a suit, though no special damage has been caused, for a declaration and injunction or for such other relief as may be appropriate to the circumstances of the case.

(2) Nothing in this section shall be deemed to limit or otherwise affect any right of suit which may exist independently of its provisions.

92. (1) In the case of any alleged breach of any express or constructive trust created for public purposes of a charitable or religious nature, or where the direction of the Court is deemed necessary for the administration of any such trust, the Advocate General, or two or more persons having an interest in the trust and having obtained the consent in writing of the Advocate General, may institute a suit, whether contentious or not, in the principal Civil Court of original jurisdiction or in any other Court empowered in that behalf by the Local Government within the local limits of whose jurisdiction the whole or any part of the subject-matter of the trust is situate to obtain a decree—

- (a) removing any trustee ;
- (b) appointing a new trustee ;
- (c) vesting any property in a trustee ;
- (d) directing accounts and inquiries ;
- (e) declaring what proportion of the trust-property or of the interest therein shall be allocated to any particular object of the trust ;
- (f) authorizing the whole or any part of the trust-property to be let, sold, mortgaged or exchanged ;
- (g) settling a scheme ; or
- (h) granting such further or other relief as the nature of the case may require.

(2) Save as provided by the Religious Endowments Act, 1863, no suit claiming any of the reliefs specified in sub-section (1) shall be instituted in respect of any such trust as is therein referred to except in conformity with the provisions of that sub-section.

93. The powers conferred by sections 91 and 92 on the Advocate General may, outside the Presidency-towns, be, with the previous sanction of the Local Government,

exercised also by the Collector or by such officer as the Local Government may appoint in this behalf.

PART VI.**SUPPLEMENTAL PROCEEDINGS.**

94. In order to prevent the ends of justice Supplemental proceedings. Court may, if it is so prescribed,—

- (a) issue a warrant to arrest the defendant and bring him before the Court to show cause why he should not give security for his appearance, and if he fails to comply with any order for security commit him to the civil prison ;
- (b) direct the defendant to furnish security to produce any property belonging to him and to place the same at the disposal of the Court or order the attachment of any property ;
- (c) grant a temporary injunction and in case of disobedience commit the person guilty thereof to the civil prison and order that his property be attached and sold ;
- (d) appoint a receiver of any property and enforce the performance of his duties by attaching and selling his property ;
- (e) make such other interlocutory orders as may appear to the Court to be just and convenient.

95. (1) Where, in any suit in which an arrest or attachment has been effected or a temporary injunction granted under the last preceding section,—

- (a) it appears to the Court that such arrest, attachment or injunction was applied for on insufficient grounds, or
- (b) the suit of the plaintiff fails and it appears to the Court that there was no reasonable or probable ground for instituting the same,

the defendant may apply to the Court, and the Court may, upon such application, award against the plaintiff by its order such amount, not exceeding one thousand rupees, as it deems a reasonable compensation to the defendant for the expense or injury caused to him :

Provided that a Court shall not award, under this section, an amount exceeding the limits of its pecuniary jurisdiction.

(2) An order determining any such application shall bar any suit for compensation in respect of such arrest, attachment or injunction.

*The Code of Civil Procedure 1908.**(Part VII.—Appeals.)***PART VII.****APPEALS.****APPEALS FROM ORIGINAL DECREES.**

96. (1) Save where otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie from every decree passed by any Court exercising original jurisdiction to the Court authorized to hear appeals from the decisions of such Court.

(2) An appeal may lie from an original decree passed *ex parte*.

(3) No appeal shall lie from a decree passed by the Court with the consent of parties.

97. Where any party aggrieved by a preliminary decree passed after the commencement of this Code does not appeal from such decree, he shall be precluded from disputing its correctness in any appeal which may be preferred from the final decree.

98. (1) Where an appeal is heard by a Bench of two or more Judges, the appeal shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges.

(2) Where there is no such majority which concurs in a judgment varying or reversing the decree appealed from, such decree shall be confirmed:

Provided that where the Bench hearing the appeal is composed of two Judges belonging to a Court consisting of more than two Judges, and the Judges composing the Bench differ in opinion on a point of law, they may state the point of law upon which they differ, and the appeal shall then be heard upon that point only by one or more of the other Judges, and such point shall be decided according to the opinion of the majority (if any) of the Judges who have heard the appeal, including those who first heard it.

99. No decree shall be reversed or substantially varied, nor shall any case be remanded, in appeal on account of any misjoinder of parties or causes of action or any error, defect or irregularity in any proceedings in the suit, not affecting the merits of the case or the jurisdiction of the Court.

APPEALS FROM APPELLATE DECREES.

100. (1) Save where otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie to the

High Court from every decree passed in appeal by any Court subordinate to a High Court, on any of the following grounds, namely:—

- (a) the decision being contrary to law or to some usage having the force of law;
- (b) the decision having failed to determine some material issue of law or usage having the force of law;
- (c) a substantial error or defect in the procedure provided by this Code or by any other law for the time being in force, which may possibly have produced error or defect in the decision of the case upon the merits.

(2) An appeal may lie under this section from an appellate decree passed *ex parte*.

101. No second appeal shall lie except on the grounds mentioned in section 100.

102. No second appeal shall lie in any suit of the nature cognizable by Courts of Small Causes, when the amount or value of the subject-matter of the original suit does not exceed five hundred rupees.

103. In any second appeal, the High Court may, if the evidence on the record is sufficient, determine any issue of fact necessary for the disposal of the appeal but not determined by the lower appellate Court.

APPEALS FROM ORDERS.

104. (1) An appeal shall lie from the following orders, and save as otherwise expressly provided in the body of this Code or by any law for the time being in force from no other orders:—

- (a) an order superseding an arbitration where the award has not been completed within the period allowed by the Court;
- (b) an order on an award stated in the form of a special case;
- (c) an order modifying or correcting an award;
- (d) an order filing or refusing to file an agreement to refer to arbitration;
- (e) an order staying or refusing to stay a suit where there is an agreement to refer to arbitration;
- (f) an order filing or refusing to file an award in an arbitration without the intervention of the Court;
- (g) an order under section 95;
- (h) an order under any of the provisions of this Code imposing a fine or directing the arrest or detention in the civil prison of any person except where such arrest or detention is in execution of a decree;
- (i) any order made under rules from which an appeal is expressly allowed by rules.

*The Code of Civil Procedure, 1908.**(Part VII.—Appeals.)*

(2) No appeal shall lie from any order passed in appeal under this section.

105. (1) Save as otherwise expressly provided, no appeal shall lie from any order made by a Court in the exercise of its original or appellate jurisdiction; but, where a decree is appealed from, any error, defect or irregularity in any order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal.

(2) Notwithstanding anything contained in sub-section (1), where any party aggrieved by an order of remand made after the commencement of this Code from which an appeal lies does not appeal therefrom, he shall thereafter be precluded from disputing its correctness.

106. Where an appeal from any order is allowed, it shall lie to the Court to which an appeal would lie from the decree in the suit in which such order was made, or where such order is made by a Court (not being a High Court) in the exercise of appellate jurisdiction, then to the High Court.

GENERAL PROVISIONS RELATING TO APPEALS.

107. (1) Subject to such conditions and limitations as may be prescribed, an Appellate Court shall have power—

- (a) to determine a case finally;
- (b) to remand a case;
- (c) to frame issues and refer them for trial;
- (d) to take additional evidence or to require such evidence to be taken.

(2) Subject as aforesaid, the Appellate Court shall have the same powers and shall perform as nearly as may be the same duties as are conferred and imposed by this Code on Courts of original jurisdiction in respect of suits instituted therein.

108. The provisions of this Part relating to appeals from appellate decrees and orders shall, so far as may be, apply to appeals—

- (a) from appellate decrees, and
- (b) from orders made under this Code or under any special or local law in which a different procedure is not provided.

APPEALS TO THE KING IN COUNCIL.

109. Subject to such rules as may, from time to time, be made by His Majesty in Council regarding appeals from the Courts of British India, and to the provisions

hereinafter contained, an appeal shall lie to His Majesty in Council—

- (a) from any decree or final order passed on appeal by a High Court or by any other Court of final appellate jurisdiction;
- (b) from any decree or final order passed by a High Court in the exercise of original civil jurisdiction; and
- (c) from any decree or order, when the case, as hereinafter provided, is certified to be a fit one for appeal to His Majesty in Council.

110. In each of the cases mentioned in clauses (a) and (b) of section 109, the amount or value of the subject-matter of the suit in the Court of first instance must be ten thousand rupees or upwards, and the amount or value of the subject-matter in dispute on appeal to His Majesty in Council must be the same sum or upwards,

or the decree or final order must involve directly or indirectly, some claim or question to or respecting property of like amount or value,

and where the decree or final order appealed from affirms the decision of the Court immediately below the Court passing such decree or final order, the appeal must involve some substantial question of law.

111. Notwithstanding anything contained in section 109, no appeal shall lie to His Majesty in Council—

- (a) from the decree or order of one Judge of a High Court established under the Indian High Courts Act, 1861, or of one Judge of a Division Court, or of two or more Judges of such High Court, or of a Division Court constituted by two or more Judges of such High Court, where such Judges are equally divided in opinion, and do not amount in number to a majority of the whole of the Judges of the High Court at the time being; or
- (b) from any decree from which under section 102 no second appeal lies.

112. (1) Nothing contained in this Code shall be deemed—

- (a) to bar the full and unqualified exercise of His Majesty's pleasure in receiving or rejecting appeals to His Majesty in Council, or otherwise howsoever, or
- (b) to interfere with any rules made by the Judicial Committee of the Privy Council, and for the time being in force, for the presentation of appeals to His Majesty in Council, or their conduct before the said Judicial Committee.

The Code of Civil Procedure, 1908.

(Part VIII.—Reference, Review and Revision. Part IX.—Special Provisions relating to the Chartered High Courts. Part X.—Rules.)

(2) Nothing herein contained applies to any matter of criminal or admiralty or vice-admiralty jurisdiction, or to appeals from orders and decrees of Prize Courts.

PART VIII.**REFERENCE, REVIEW AND REVISION.**

113. Subject to such conditions and limitations as may be prescribed, any Court may state a case and refer the same for the opinion of the High Court, and the High Court may make such order thereon as it thinks fit.

114. Subject as aforesaid, any person considering himself aggrieved—

(a) by a decree or order from which an appeal is allowed by this Code, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed by this Code, or

(c) by a decision on a reference from a Court of Small Causes,

may apply for a review of judgment to the Court which passed the decree or made the order, and the Court may make such order thereon as it thinks fit.

115. The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate Court appears—

(a) to have exercised a jurisdiction not vested in it by law, or

(b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the High Court may make such order in the case as it thinks fit.

PART IX.**SPECIAL PROVISIONS RELATING TO THE CHARTERED HIGH COURTS.**

116. This Part applies only to High Courts Part to apply only to which are or may hereafter certain High Courts. be established under the Indian High Courts Act, 1861.

117. Save as provided in this Part or in Application of Code Part X or in rules, the provisions of this Code shall apply to such High Courts.

118. Where any such High Court considers it Execution of decree necessary that a decree before ascertainment of costs. passed in the exercise of its original civil jurisdiction

should be executed before the amount of the costs incurred in the suit can be ascertained by taxation, the Court may order that the decree shall be executed forthwith, except as to so much thereof as relates to the costs ;

and, as to so much thereof as relates to the costs, that the decree may be executed as soon as the amount of the costs shall be ascertained by taxation.

119. Nothing in this Code shall be deemed to Unauthorized persons authorize any person on not to address Court. behalf of another to address the Court in the exercise of its original civil jurisdiction, or to examine witnesses, except where the Court shall have in the exercise of the power conferred by its charter authorized him so to do, or to interfere with the power of the High Court to make rules concerning advocates, vakils and attorneys.

120. (1) The following provisions shall not apply to the High Court in the exercise of its original civil jurisdiction, namely, sections 16, 17 and 20.

(2) Nothing in this Code shall extend or apply to any Judge of a High Court in the exercise of jurisdiction as an Insolvent Court.

PART X.**RULES.**

121. The rules in the First Schedule shall have effect as if enacted in the body of this Code until annulled or altered in accordance with the provisions of this Part.

122. High Courts established under the Power of certain High Indian High Courts Act, Courts to make rules. 1861, and the Chief Courts of the Punjab and Lower Burma, may, from time to time after previous publication make rules regulating their own procedure and the procedure of the Civil Courts subject to their superintendence, and may by such rules annul, alter or add to all or any of the rules in the First Schedule.

123. (1) A Committee, to be called the Rule Constitution of Rule Committee, shall be constituted at each of the towns provinces. of Calcutta, Madras, Bombay, Allahabad, Lahore and Rangoon.

(2) Each such Committee shall consist of the following persons, namely :—

(a) three Judges of the High Court established at the town at which such Committee is constituted, one of whom at least has served as a District Judge or (in the Punjab or Burma) a Divisional Judge for three years.

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- (b) a barrister practising in that Court,
- (c) an advocate (not being a barrister) or vakil or pleader enrolled in that Court,
- (d) a Judge of a Civil Court subordinate to the High Court, and
- (e) in the towns of Calcutta, Madras and Bombay, an attorney.

(3) The members of each such Committee shall be appointed by the Chief Justice or Chief Judge, who shall also nominate one of their number to be president :

Provided that, if the Chief Justice or Chief Judge elects to be himself a member of a Committee, the number of other Judges appointed to be members shall be two, and the Chief Justice or Chief Judge shall be the President of the Committee.

(4) Each member of any such Committee shall hold office for such period as may be prescribed by the Chief Justice or Chief Judge in this behalf ; and whenever any member retires, resigns, dies or ceases to reside in the province in which the Committee was constituted, or becomes incapable of acting as a member of the Committee, the said Chief Justice or Chief Judge may appoint another person to be a member in his stead.

(5) There shall be a Secretary to each such Committee, who shall be appointed by the Chief Justice or Chief Judge and shall receive such remuneration as may be provided in this behalf by the Governor General in Council or by the Local Government, as the case may be.

124. Every Rule Committee shall make a Committee to report to report to the High Court High Court. established at the town at which it is constituted on any proposal to annul, alter or add to the rules in the First Schedule or to make new rules, and before making any rules under section 122 the High Court shall take such report into consideration.

125. High Courts, other than the Courts specified in section 122, may exercise the powers conferred by that section in such manner and subject to such conditions as the Governor General in Council may determine :

Provided that any such High Court may, after previous publication, make a rule extending within the local limits of its jurisdiction any rules which have been made by any other High Court.

126. Rules made under the foregoing provisions shall be subject to the sanction. previous sanction of the following authorities, namely :—

- (a) if the rule is made by a High Court established under the Indian High Courts Act, 1861, to the sanction of the authority prescribed by section 15 of that Act for rules made under that section ;

- (b) if the rule is made by any other High Court, to the sanction of the Local Government.

127. Rules so made and sanctioned shall be published in the Gazette of India or in the local official Gazette, as the case may be, and shall from the date of publication or from such other date as may be specified have the same force and effect, within the local limits of the jurisdiction of the High Court which made them, as if they had been contained in the First Schedule.

128. (1) Such rules shall be not inconsistent with the provisions in the body of this Code, but, subject thereto, may provide for any matters relating to the procedure of Civil Courts.

(2) In particular, and without prejudice to the generality of the powers conferred by sub-section (1), such rules may provide for all or any of the following matters, namely :—

- (a) the service of summonses, notices and other processes by post or in any other manner either generally or in any specified areas, and the proof of such service ;
- (b) the maintenance and custody, while under attachment, of live-stock and other moveable property, the fees payable for such maintenance and custody, the sale of such live-stock and property and the proceeds of such sale ;
- (c) procedure in suits by way of counter-claim, and the valuation of such suits for the purposes of jurisdiction ;
- (d) procedure in garnishee and charging orders either in addition to, or in substitution for, the attachment and sale of debts ;
- (e) procedure where the defendant claims to be entitled to contribution or indemnity over against any person whether a party to the suit or not ;
- (f) summary procedure—
 - (i) in suits in which the plaintiff seeks only to recover a debt or liquidated demand in money payable by the defendant, with or without interest, arising—
 - on a contract express or implied ; or
 - on an enactment where the sum sought to be recovered is a fixed sum of money or in the nature of a debt other than a penalty ; or
 - on a guarantee, where the claim against the principal is in respect of a debt or a liquidated demand only ; or
 - on a trust ; or

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(Part XI.—Miscellaneous.)

(ii) in suits for the recovery of immovable property, with or without a claim for rent or mesne profits, by a landlord against a tenant whose term has expired or has been duly determined by notice to quit, or has become liable to forfeiture for non-payment of rent, or against persons claiming under such tenant ;

(g) procedure by way of originating summons ;

(h) consolidation of suits, appeals and other proceedings ;

(i) delegation to any Registrar, Prothonotary or Master or other official of the Court of any judicial, quasi-judicial and non-judicial duties ; and

(j) all forms, registers, books, entries and accounts which may be necessary or desirable for the transaction of the business of Civil Courts.

129. Notwithstanding anything in this Code, any High Court established under the Indian High Courts Act, 1861, may make such rules not inconsistent with the Letters Patent establishing it to regulate its own procedure in the exercise of its original civil jurisdiction as it shall think fit, and nothing herein contained shall affect the validity of any such rules in force at the commencement of this Code.

130. A High Court not established under the Indian High Courts Act, 1861, may, with the previous sanction of the Local Government, make, with respect to any matter other than procedure, any rule which any High Court so established might, under section 15 of that Act, make with respect to any such matter for any part of the territories under its jurisdiction which is not included within the limits of a Presidency-town.

131. Rules made in accordance with section 129 or section 130 shall be published in the Gazette of India or in the local official Gazette, as the case may be, and shall from the date of publication or from such other date as may be specified have the force of law.

PART XI.

MISCELLANEOUS.

132. (1) Women who, according to the customs and manners of the country, ought not to be compelled to appear in public shall be exempt from personal appearance in Court.

(2) Nothing herein contained shall be deemed to exempt such women from arrest in execution of civil process in any case in which the arrest of women is not prohibited by this Code.

133. (1) The Local Government may, by notification in the local official Gazette, exempt from personal appearance in Court any person whose rank, in the opinion of such Government, entitles him to the privilege of exemption.

(2) The names and residences of the persons so exempted shall, from time to time, be forwarded to the High Court by the Local Government and a list of such persons shall be kept in such Court, and a list of such persons as reside within the local limits of the jurisdiction of each Court subordinate to the High Court shall be kept in such subordinate Court.

(3) Where any person so exempted claims the privilege of such exemption, and it is consequently necessary to examine him by commission, he shall pay the costs of that commission, unless the party requiring his evidence pays such costs.

134. The provisions of sections 55, 57 and 59 shall apply, so far as may be, to all persons arrested under this Code.

135. (1) No Judge, Magistrate or other judicial officer shall be liable to arrest under civil process while going to, presiding in, or returning from, his Court.

(2) Where any matter is pending before a tribunal having jurisdiction therein, or believing in good faith that it has such jurisdiction, the parties thereto, their pleaders, mukhtars, revenue-agents and recognized agents, and their witnesses acting in obedience to a summons, shall be exempt from arrest under civil process other than process issued by such tribunal for contempt of Court while going to or attending such tribunal for the purpose of such matter, and while returning from such tribunal.

(3) Nothing in sub-section (2) shall enable a judgment-debtor to claim exemption from arrest under an order for immediate execution or where such judgment-debtor attends to show cause why he should not be committed to prison in execution of a decree.

136. (1) Where an application is made that any person shall be arrested or that any property shall be attached under any provision of this Code not relating to the execution of decrees, and such person resides or such property is situate outside the local limits of the jurisdiction of the Court to which the application is made, the Court may, in its discretion, issue a warrant of arrest or make an order of attachment, and send to the District Court within the local limits of whose jurisdiction such person or property resides or is situate a copy of the warrant or order, together with the probable amount of the costs of the arrest or attachment.

(2) The District Court shall, on receipt of such copy and amount, cause the arrest or attachment to be made by its own officers, or by a Court

24 & 25
Vict., c. 104.

24 & 25
Vict., c. 104.

Power of Chartered
High Courts to make
rules as to their
original civil proced-
ure.

Power of other
High Courts to make
rules as to matters
other than procedure.

Arrest other than in
execution of decree.

Exemption from
arrest under civil pro-
cess.

Procedure where
person to be arrested or
property to be attached
is outside district.

*The Code of Civil Procedure, 1908.**(Part XI.—Miscellaneous.)*

subordinate to itself, and shall inform the Court which issued or made such warrant or order of the arrest or attachment.

(3) The Court making an arrest under this section shall send the person arrested to the Court by which the warrant of arrest was issued, unless he shows cause to the satisfaction of the former Court why he should not be sent to the latter Court, or unless he furnishes sufficient security for his appearance before the latter Court or for satisfying any decree that may be passed against him by that Court, in either of which cases the Court making the arrest shall release him.

(4) Where a person to be arrested or moveable property to be attached under this section is within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal or at Madras or at Bombay, or of the Chief Court of Lower Burma, the copy of the warrant of arrest or of the order of attachment, and the probable amount of the costs of the arrest or attachment, shall be sent to the Court of Small Causes of Calcutta, Madras, Bombay or Rangoon, as the case may be, and that Court, on receipt of the copy and amount, shall proceed as if it were the District Court.

137. (1) The language which, on the commencement of this Code, is the language of any Court subordinate to a High Court shall continue to be the language of such subordinate Court until the Local Government otherwise directs

(2) The Local Government may declare what shall be the language of any such Court and in what character applications to and proceedings in such Court shall be written.

(3) Where this Code requires or allows anything other than the recording of evidence, to be done in writing in any such Court, such writing may be in English; but if any party or his pleader is unacquainted with English a translation into the language of the Court shall, at his request, be supplied to him; and the Court shall make such order as it thinks fit in respect of the payment of the costs of such translation.

138. (1) The Local Government may, by notification in the local official Gazette, direct with respect to any Judge specified in the notification, or falling under a description set forth therein, that evidence in cases in which an appeal is allowed shall be taken down by him in the English language and in manner prescribed.

(2) Where a Judge is prevented by any sufficient reason from complying with a direction under sub-section (1), he shall record the reason and cause the evidence to be taken down in writing from his dictation in open Court.

139. In the case of any affidavit under this Code—

- (a) any Court or Magistrate, or
(b) any officer or other person whom a High Court may appoint in this behalf, or

(c) any officer appointed by any other Court which the Local Government has generally or specially empowered in this behalf,

may administer the oath to the deponent.

140. (1) In any Admiralty or Vice-Admiralty cause of salvage, towage or collision, the Court, whether it be exercising its original or its appellate jurisdiction, may, if it thinks fit, and shall upon request of either party to such cause, summon to its assistance, in such manner as it may direct or as may be prescribed, two competent assessors; and such assessors shall attend and assist accordingly.

(2) Every such assessor shall receive such fees for his attendance, to be paid by such of the parties as the Court may direct or as may be prescribed.

141. The procedure provided in this Code in regard to suits shall be followed, as far as it can be made applicable, in all proceedings in any Court of civil jurisdiction.

142. All orders and notices served on or given to any person under the provisions of this Code shall be in writing.

143. Postage, where chargeable on a notice, summons or letter issued under this Code and forwarded by post, and the fee for registering the same, shall be paid within a time to be fixed before the communication is made:

Provided that the Local Government, with the previous sanction of the Governor General in Council, may remit such postage, or fee, or both, or may prescribe a scale of court-fees to be levied in lieu thereof.

144. (1) Where and in so far as a decree is varied or reversed, the Court of first instance shall, on the application of any party entitled to any benefit by way of restitution or otherwise, cause such restitution to be made as will, so far as may be, place the parties in the position which they would have occupied but for such decree or such part thereof as has been varied or reversed; and, for this purpose, the Court may make any orders, including orders for the refund of costs and for the payment of interest, damages, compensation and mesne profits, which are properly consequential on such variation or reversal.

(2) No suit shall be instituted for the purpose of obtaining any restitution or other relief which could be obtained by application under sub-section (1).

145. Where any person has become liable as surety—

- (a) for the performance of any decree or any part thereof, or

The Code of Civil Procedure, 1908.
(Part XI.—Miscellaneous.)

(b) for the restitution of any property taken in execution of a decree, or

(c) for the payment of any money, or for the fulfilment of any condition imposed on any person, under an order of the Court in any suit or in any proceeding consequent thereon,

the decree or order may be executed against him, to the extent to which he has rendered himself personally liable, in the manner herein provided for the execution of decrees, and such person shall, for the purposes of appeal, be deemed a party within the meaning of section 47:

Provided that such notice as the Court in each case thinks sufficient has been given to the surety.

146. Save as otherwise provided by this Code or by any law for the time being in force, where any proceeding may be taken or application made by or against any person, then the proceeding may be taken or the application may be made by or against any person claiming under him.

147. In all suits to which any person under disability is a party, any consent or agreement by persons under disability, as to any proceeding shall, if given or made with the express leave of the Court by the next friend or guardian for the suit, have the same force and effect as if such person were under no disability and had given such consent or made such agreement.

148. Where any period is fixed or granted by the Court for the doing of any act prescribed or allowed by this Code, the Court may, in its discretion, from time to time, enlarge such period, even though the period originally fixed or granted may have expired.

149. Where the whole or any part of any fee prescribed for any document by the law for the time being in force relating to court-fees has not been paid, the Court may, in its discretion, at any stage, allow the person, by whom such fee is payable, to pay the whole or part, as the case may be, of such court-fee; and upon such payment the document, in respect of which such fee is payable, shall have the same force and effect as if such fee had been paid in the first instance.

150. Save as otherwise provided, where the business of any Court is transferred to any other Court, the Court to which the business is so transferred shall have the same powers and shall perform the same duties as those respectively conferred and imposed by or under this Code

upon the Court from which the business was so transferred.

151. Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.

152. Clerical or arithmetical mistakes in judgments, decrees or orders or errors arising therein from any accidental slip or omission may at any time be corrected by the Court either of its own motion or on the application of any of the parties.

153. The Court may at any time, and on such terms as to costs or otherwise as it may think fit, amend any defect or error in any proceeding in a suit; and all necessary amendments shall be made for the purpose of determining the real question or issue raised by or depending on such proceeding.

154. Nothing in this Code shall affect any present right of appeal which shall have accrued to any party at its commencement.

155. The enactments mentioned in the Fourth Schedule are hereby amended to the extent specified in the fourth column thereof.

156. The enactments mentioned in the Fifth Schedule are hereby repealed to the extent specified in the fourth column thereof.

157. Notifications published, declarations of and rules made, places orders under repealed enactments, appointed, agreements filed, scales prescribed, forms framed, appointments made and powers conferred under Act VIII of 1859 or under any Code of Civil Procedure or any Act amending the same or under any other enactment hereby repealed shall, so far as they are consistent with this Code, have the same force and effect as if they had been respectively published, made, appointed, filed, prescribed, framed and conferred under this Code and by the authority empowered thereby in such behalf.

158. In every enactment or notification passed or issued before the commencement of this Code in which reference is made to or to any Chapter or section of Act VIII of 1859 or any Code of Civil Procedure or any Act amending the same or any other enactment hereby repealed, such reference shall, so far as may be practicable, be taken to be made to this Code or to its corresponding Part, Order, section or rule.

The First Schedule.

ORDER I.

Parties to Suits.

RULES.

1. Who may be joined as plaintiffs.
2. Power of Court to order separate trials.
3. Who may be joined as defendants.
4. Court may give judgment for or against one or more of joint parties.
5. Defendant need not be interested in all the relief claimed.
6. Joinder of parties liable on same contract.
7. When plaintiff in doubt from whom redress is to be sought.
8. One person may sue or defend on behalf of all in same interest.
9. Misjoinder and non-joinder.
10. Suit in name of wrong plaintiff.
Court may strike out or add parties.
Where defendant added, plaint to be amended.
11. Conduct of suit.
12. Appearance of one of several plaintiffs or defendants for others.
13. Objections as to nonjoinder or misjoinder.

ORDER II.

Frame of Suit.

1. Frame of suit.
2. Suit to include the whole claim.
Relinquishment of part of claim.
Omission to sue for one of several reliefs.
3. Joinder of causes of action.
4. Only certain claims to be joined for recovery of immoveable property.
5. Claims by or against executor, administrator or heir.
6. Power of Court to order separate trials.
7. Objections as to misjoinder.

ORDER III.

Recognized Agents and Pleadings.

1. Appearances, etc., may be in person, by recognized agent or by pleader.
2. Recognized agents.
3. Service of process on recognized agent.
4. Appointment of pleader.
5. Service of process on pleader.
6. Agent to accept service.
Appointment to be in writing and to be filed in Court.

ORDER IV.

Institution of Suits.

1. Suit to be commenced by plaint.
2. Register of suits.

ORDER V.

Issue and Service of Summons.

Issue of Summons.

1. Summons.
2. Copy or statement annexed to summons.
3. Court may order defendant or plaintiff to appear in person.
4. No party to be ordered to appear in person unless resident within certain limits.

RULES.

5. Summons to be either to settle issues or for final disposal.
6. Fixing day for appearance of defendant.
7. Summons to order defendant to produce documents relied on by him.
8. On issue of summons for final disposal, defendant to be directed to produce his witnesses.

Service of Summons.

9. Delivery or transmission of summons for service.
10. Mode of service.
11. Service on several defendants.
12. Service to be on defendant in person when practicable, or on his agent.
13. Service on agent by whom defendant carries on business.
14. Service on agent in charge in suits for immoveable property.
15. Where service may be on male member of defendant's family.
16. Person served to sign acknowledgment.
17. Procedure when defendant refuses to accept service, or cannot be found.
18. Endorsement of time and manner of service.
19. Examination of serving officer.
20. Substituted service.
Effect of substituted service.
Where service substituted, time for appearance to be fixed.
21. Service of summons where defendant resides within jurisdiction of another Court.
22. Service, within Presidency-towns and Rangoon, of summons issued by Courts outside.
23. Duty of Court to which summons is sent.
24. Service on defendant in prison.
25. Service where defendant resides out of British India and has no agent.
26. Service in foreign territory through Political Agent or Court.
27. Service on civil public officer or on servant of railway company or local authority.
28. Service on soldiers.
29. Duty of person to whom summons is delivered or sent for service.
30. Substitution of letter for summons.

ORDER VI.

Pleadings generally.

1. Pleading.
2. Pleading to state material facts and not evidence.
3. Forms of pleading.
4. Particulars to be given where necessary.
5. Further and better statement, or particulars.
6. Condition precedent.
7. Departure.
8. Denial of contract.
9. Effect of document to be stated.
10. Malice, knowledge, etc.
11. Notice.
12. Implied contract, or relation.
13. Presumptions of law.
14. Pleading to be signed.
15. Verification of pleadings.
16. Striking out pleadings.
17. Amendment of pleadings.
18. Failure to amend after order.

ORDER VII.

Plaint.

1. Particulars to be contained in plaint.
2. In money suits.
3. Where the subject-matter of the suit is immoveable property.
4. When plaintiff sues as representative.
5. Defendant's interest and liability to be shown.

RULES.

6. Grounds of exemption from limitation law.
7. Relief to be specifically stated.
8. Relief founded on separate grounds.
9. Procedure on admitting plaint.
Concise statements.
10. Return of plaint.
Procedure on returning plaint.
11. Rejection of plaint.
12. Procedure on rejecting plaint.
13. Where rejection of plaint does not preclude presentation of fresh plaint.

Documents relied on in plaint.

14. Production of document on which plaintiff sues.
List of other documents.
15. Statement in case of documents not in his possession or power.
16. Suits on lost negotiable instruments.
17. Production of shop-book.
Original entry to be marked and returned.
18. Inadmissibility of document not produced when plaint filed.

ORDER VIII.

Written Statement and Set-off.

1. Written statement.
2. New facts must be specially pleaded.
3. Denial to be specific.
4. Evasive denial.
5. Specific denial.
6. Particulars of set-off to be given in written statement.
Effect of set-off.
7. Defence or set-off founded on separate grounds.
8. New ground of defence.
9. Subsequent pleadings.
10. Procedure when party fails to present written statement called for by Court.

ORDER IX.

Appearance of Parties and Consequence of Non-appearance.

1. Parties to appear on day fixed in summons for defendant to appear and answer.
2. Dismissal of suit where summons not served in consequence of plaintiff's failure to pay costs.
3. Where neither party appears, suit to be dismissed.
4. Plaintiff may bring fresh suit or Court may restore suit to file.
5. Dismissal of suit where plaintiff, after summons returned unserved, fails for a year to apply for fresh summons.
6. Procedure when only plaintiff appears.
When summons duly served.
When summons not duly served.
When summons served, but not in due time.
7. Procedure where defendant appears on day of adjourned hearing and assigns good cause for previous non-appearance.
8. Procedure where defendant only appears.
9. Decree against plaintiff by default bars fresh suit.
10. Procedure in case of non-attendance of one or more of several plaintiffs.
11. Procedure in case of non-attendance of one or more of several defendants.
12. Consequence of non-attendance, without sufficient cause shown, of party ordered to appear in person.

Setting aside Decrees ex parte.

13. Setting aside decree *ex parte* against defendant.
14. No decree to be set aside without notice to opposite party.

RULES.

ORDER X.

Examination of Parties by the Court.

1. Ascertainment whether allegations in pleadings are admitted or denied.
2. Oral examination of party, or companion of party.
3. Substance of examination to be written.
4. Consequence of refusal or inability of pleader to answer.

ORDER XI.

Discovery and Inspection.

1. Discovery by interrogatories.
2. Particular interrogatories to be submitted.
3. Costs of interrogatories.
4. Form of interrogatories.
5. Corporations.
6. Objections to interrogatories by answer.
7. Setting aside and striking out interrogatories.
8. Affidavit in answer, filing.
9. Form of affidavit in answer.
10. No exception to be taken.
11. Order to answer or answer further.
12. Application for discovery of documents.
13. Affidavit of documents.
14. Production of documents.
15. Inspection of documents referred to in pleading or affidavits.
16. Notice to produce.
17. Time for inspection when notice given.
18. Order for inspection.
19. Verified copies.
20. Premature discovery.
21. Non-compliance with order for discovery.
22. Using answers to interrogatories at trial.
23. Order to apply to minors.

ORDER XII.

Admissions.

1. Notice of admission of case.
2. Notice to admit documents.
3. Form of notice.
4. Notice to admit facts.
5. Form of admissions.
6. Judgment on admissions.
7. Affidavit of signature.
8. Notice to produce documents.
9. Costs.

ORDER XIII.

Production, Impounding and Return of Documents.

1. Documentary evidence to be produced at first hearing.
2. Effect of non-production of documents.
3. Rejection of irrelevant or inadmissible documents.
4. Endorsements on documents admitted in evidence.
5. Endorsements on copies of admitted entries in books, accounts and records.
6. Endorsements on documents rejected as inadmissible in evidence.
7. Recording of admitted and return of rejected documents.
8. Court may order any document to be impounded.
9. Return of admitted documents.
10. Court may send for papers from its own records or from other Courts.
11. Provisions as to documents applied to material objects.

RULES.

ORDER XIV.

Settlement of Issues and Determination of Suit on Issues of Law or on Issues agreed upon.

1. Framing of issues.
2. Issues of law and of fact.
3. Materials from which issues may be framed.
4. Court may examine witnesses or documents before framing issues.
5. Power to amend, and strike out, issues.
6. Questions of fact or law may by agreement be stated in form of issues.
7. Court, if satisfied that agreement was executed in good faith, may pronounce judgment.

ORDER XV.

Disposal of the Suit at the first hearing.

1. Parties not at issue.
2. One of several defendants not at issue.
3. Parties at issue.
4. Failure to produce evidence.

ORDER XVI.

Summoning and Attendance of Witnesses.

1. Summons to attend to give evidence or produce documents.
2. Expenses of witness to be paid into Court on applying for summons.
3. Experts.
Scale of expenses.
4. Tender of expenses to witness.
5. Procedure where insufficient sum paid in.
6. Expenses of witnesses detained more than one day.
7. Time, place and purpose of attendance to be specified in summons.
8. Summons to produce document.
9. Power to require persons present in Court to give evidence or produce document.
10. Summons how served.
11. Time for serving summons.
12. Procedure where witness fails to comply with summons.
13. If witness appears, attachment may be withdrawn.
14. Procedure if witness fails to appear.
15. Mode of attachment.
16. Court may of its own accord summon as witnesses strangers to suit.
17. Duty of persons summoned to give evidence or produce document.
18. When they may depart.
19. Application of rules 10 to 13.
20. Procedure where witness apprehended cannot give evidence or produce document.
21. No witness to be ordered to attend in person unless resident within certain limits.
22. Consequence of refusal of party to give evidence when called on by Court.
23. Rules as to witnesses to apply to parties summoned.

ORDER XVII.

Adjournments.

1. Court may grant time and adjourn hearing.
2. Costs of adjournment.
3. Procedure if parties fail to appear on day fixed.
4. Court may proceed notwithstanding either party fails to produce evidence, etc.

ORDER XVIII.

Hearing of the Suit and Examination of Witnesses.

1. Right to begin.
2. Statement and production of evidence.
3. Evidence where several issues.

RULES.

4. Witnesses to be examined in open Court.
5. How evidence shall be taken in appealable cases.
6. When deposition to be interpreted.
7. Evidence under section 138.
8. Memorandum when evidence not taken down by Judge.
9. When evidence may be taken in English.
10. Any particular question and answer may be taken down.
11. Questions objected to and allowed by Court.
12. Remarks on demeanour of witnesses.
13. Memorandum of evidence in unappealable cases.
14. Judge unable to make such memorandum to record reasons of his inability.
15. Power to deal with evidence taken before another Judge.
16. Power to examine witness immediately.
17. Court may recall and examine witness.
18. Power of Court to inspect.

ORDER XIX.

Affidavits.

1. Power to order any point to be proved by affidavit.
2. Power to order attendance of deponent for cross-examination.
3. Matters to which affidavits shall be confined.

ORDER XX.

Judgment and Decree.

1. Judgment when pronounced.
2. Power to pronounce judgment written by Judge's predecessor.
3. Judgment to be signed.
4. Judgments of Small Cause Courts.
Judgments of other Courts.
5. Court to state its decision on each issue.
6. Contents of decree.
7. Date of decree.
8. Procedure where Judge has vacated office before signing decree.
9. Decree for recovery of immoveable property.
10. Decree for delivery of moveable property.
11. Decree may direct payment by instalments.
Order, after decree, for payment by instalments.
12. Decree for possession and mesne profits.
13. Decree in administration-suit.
14. Decree in pre-emption-suit.
15. Decree in suit for dissolution of partnership.
16. Decree in suit for account between principal and agent.
17. Special directions as to accounts.
18. Decree in suit for partition of property or separate possession of a share therein.
19. Decree when set-off is allowed.
Appeal from decree relating to set-off.
20. Certified copies of judgment and decree to be furnished.

ORDER XXI.

*Execution of Decrees and Orders.**Payment under Decree.*

1. Modes of paying money under decree.
2. Payment out of Court to decree-holder.

Courts executing Decrees.

3. Lands situate in more than one jurisdiction.
4. Transfer to Court of Small Causes.
5. Mode of transfer.
6. Procedure where Court desires that its own decree shall be executed by another Court.
7. Court receiving copies of decree, etc., to file same without proof.
8. Execution of decree or order by Court to which it is sent.
9. Execution by High Court of decree transferred by other Court.

RULES.

Application for execution.

10. Application for execution.
11. Oral application.
Written application.
12. Application for attachment of moveable property not in judgment-debtor's possession.
13. Application for attachment of immoveable property to contain certain particulars.
14. Power to require certified extract from Collector's register in certain cases.
15. Application for execution by joint decree-holder.
16. Application for execution by transferee of decree.
17. Procedure on receiving application for execution of decree.
18. Execution in case of cross-decrees.
19. Execution in case of cross-claims under same decree.
20. Cross-decrees and cross-claims in mortgage-suits.
21. Simultaneous execution.
22. Notice to show cause against execution in certain cases.
23. Procedure after issue of notice.

Process for execution.

24. Process for execution.
25. Endorsement on process.

Stay of execution.

26. When Court may stay execution.
Power to require security from, or impose conditions upon, judgment-debtor.
27. Liability of judgment-debtor discharged.
28. Order of Court which passed decree or of appellate Court to be binding upon Court applied to.
29. Stay of execution pending suit between decree-holder and judgment-debtor.

Mode of execution.

30. Decree for payment of money.
31. Decree for specific moveable property.
32. Decree for specific performance for restitution of conjugal rights or for an injunction.
33. Discretion of Court in executing decrees for restitution of conjugal rights.
34. Decree for execution of document, or endorsement of negotiable instrument.
35. Decree for immoveable property.
36. Decree for delivery of immoveable property when in occupancy of tenant.

Arrest and detention in the civil prison.

37. Discretionary power to permit judgment-debtor to show cause against detention in prison.
38. Warrant for arrest to direct judgment-debtor to be brought up.
39. Subsistence-allowance.
40. Proceedings on appearance of judgment-debtor in obedience to notice or after arrest.

Attachment of property.

41. Examination of judgment-debtor as to his property.
42. Attachment in case of decree for rent or mesne profits or other matter, amount of which to be subsequently determined.
43. Attachment of moveable property, other than agricultural produce, in possession of judgment-debtor.
44. Attachment of agricultural produce.
45. Provisions as to agricultural produce under attachment.
46. Attachment of debt, share and other property not in possession of judgment-debtor.
47. Attachment of share in moveables.
48. Attachment of salary or allowances of public officer or servant of railway company or local authority.

RULES.

49. Attachment of partnership property.
50. Execution of decree against firm.
51. Attachment of negotiable instruments.
52. Attachment of property in custody of Court or public officer.
53. Attachment of decrees.
54. Attachment of immoveable property.
55. Removal of attachment after satisfaction of decree.
56. Order for payment of coin or currency notes to party entitled under decree.
57. Determination of attachment.

Investigation of claims and objections.

58. Investigation of claims to, and objections to attachment of, attached property.
Postponement of sale.
59. Evidence to be adduced by claimant.
60. Release of property from attachment.
61. Disallowance of claim to property attached.
62. Continuance of attachment subject to claim of incumbrancer.
63. Saving of suits to establish right to attached property.

Sale generally.

64. Power to order property attached to be sold and proceeds to be paid to person entitled.
65. Sales by whom conducted and how made.
66. Proclamation of sales by public auction.
67. Mode of making proclamation.
68. Time of sale.
69. Adjournment or stoppage of sale.
70. Saving of certain sales.
71. Defaulting purchaser answerable for loss on re-sale.
72. Decree-holder not to bid for or buy property without permission.
Where decree-holder purchases, amount of decree may be taken as payment.
73. Restriction on bidding or purchase by officers.

Sale of moveable property.

74. Sale of agricultural produce.
75. Special provisions relating to growing crops.
76. Negotiable instruments and shares in corporations.
77. Sale by public auction.
78. Irregularity not to vitiate sale, but any person injured may sue.
79. Delivery of moveable property, debts and shares.
80. Transfer of negotiable instruments and shares.
81. Vesting order in case of other property.

Sale of immoveable property.

82. What Courts may order sales.
83. Postponement of sale to enable judgment-debtor to raise amount of decree.
84. Deposit by purchaser and re-sale on default.
85. Time for payment in full of purchase-money.
86. Procedure in default of payment.
87. Notification on re-sale.
88. Bid of co-sharer to have preference.
89. Application to set aside sale on deposit.
90. Application to set aside sale on ground of irregularity or fraud.
91. Application by purchaser to set aside sale on ground of judgment-debtor having no saleable interest.
92. Sale when to become absolute or be set aside.
93. Return of purchase-money in certain cases.
94. Certificate to purchaser.
95. Delivery of property in occupancy of judgment-debtor.
96. Delivery of property in occupancy of tenant.

RULES.

Resistance to delivery of possession to decree-holder or purchaser.

97. Resistance or obstruction to possession of immoveable property.
98. Resistance or obstruction by judgment-debtor.
99. Resistance or obstruction by *bond fide* claimant.
100. Dispossession by decree-holder or purchaser.
101. *Bond fide* claimant to be restored to possession.
102. Rules not applicable to transferee *lite pendente*.
103. Orders conclusive subject to regular suit.

ORDER XXII.

Death, Marriage and Insolvency of Parties.

1. No abatement by party's death, if right to sue survives.
2. Procedure where one of several plaintiffs or defendants dies and right to sue survives.
3. Procedure in case of death of one of several plaintiffs or of sole plaintiff.
4. Procedure in case of death of one of several defendants or of sole defendant.
5. Determination of question as to legal representative.
6. No abatement by reason of death after hearing.
7. Suit not abated by marriage of female party.
8. When plaintiff's insolvency bars suit.
Procedure where assignee fails to continue suit or give security.
9. Effect of abatement or dismissal.
10. Procedure in case of assignment before final order in suit.
11. Application of Order to appeals.
12. Application of Order to proceedings.

ORDER XXIII.

Withdrawal and Adjustment of Suits.

1. Withdrawal of suit or abandonment of part of claim.
2. Limitation law not affected by first suit.
3. Compromise of suit.
4. Proceedings in execution of decrees not affected.

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1. Presidency Small Cause Courts.

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The Code of Civil Procedure 1908.
(The First Schedule.)

(Order I.—Parties to Suits. Order II.—Frame of Suit.)

(The marginal references are to Orders of the English Rules.)

The First Schedule.

ORDER I.

Parties to Suits.

1. All persons may be joined in one suit as plaintiffs in whom any right to relief in respect of or arising out of the same act or transaction or series of acts or transactions is alleged to exist, whether jointly, severally or in the alternative, where, if such persons brought separate suits, any common question of law or fact would arise.
Who may be joined as plaintiffs.
2. Where it appears to the Court that any joinder of plaintiffs may embarrass or delay the trial of the suit, the Court may put the plaintiffs to their election or order separate trials or make such other order as may be expedient.
Power of Court to order separate trials.
3. All persons may be joined as defendants against whom any right to relief in respect of or arising out of the same act or transaction or series of acts or transactions is alleged to exist, whether jointly, severally or in the alternative, where if separate suits were brought against such persons any common question of law or fact would arise.
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Court may give judgment for or against one or more of joint parties.
 - (a) for such one or more of the plaintiffs as may be found to be entitled to relief, for such relief as he or they may be entitled to;
 - (b) against such one or more of the defendants as may be found to be liable, according to their respective liabilities.
5. It shall not be necessary that every defendant shall be interested as to all the relief claimed in any suit against him.
Defendant need not be interested in all the relief claimed.
6. The plaintiff may, at his option, join as parties to the same suit all or any of the persons severally, or jointly and severally, liable on any one contract, including parties to bills of exchange, hundis and promissory notes.
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7. Where the plaintiff is in doubt as to the person from whom he is entitled to obtain redress, he may join two or more defendants in order that the question as to which of the defendants is liable, and to what extent, may be determined as between all parties.
When plaintiff in doubt from whom redress is to be sought.
8. (1) Where there are numerous persons having the same interest in one suit, one or more of such persons may, with the permission of the Court, sue or be sued, or may defend, in such suit, on behalf of or for the benefit of all persons so interested. But the Court shall in such case give, at the plaintiff's expense, notice of the institution of the suit to all such persons either by personal service or, where from the number of persons or any other cause such service is not reasonably practicable, by public advertisement, as the Court in each case may direct.
One person may sue or defend on behalf of all in same interest.
(2) Any person on whose behalf or for whose benefit a suit is instituted or defended under sub-rule (1) may apply to the Court to be made a party to such suit.
9. No suit shall be defeated by reason of the misjoinder and non-joinder of parties, and the Court may in every suit deal with the matter in controversy so far as regards the rights and interests of the parties actually before it.
10. (1) Where a suit has been instituted in the name of the wrong person as plaintiff or where it is doubtful whether it has been instituted in the name of the right plaintiff, the Court may at any stage of the suit, if satisfied that the suit has been instituted through a *bona fide* mistake, and that it is necessary for the determination of the real matter in

dispute so to do, order any other person to be substituted or added as plaintiff upon such terms as the Court thinks just.

(2) The Court may at any stage of the proceedings either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

(3) No person shall be added as a plaintiff suing without a next friend or as the next friend of a plaintiff under any disability without his consent.

(4) Where a defendant is added, the plaint shall, unless the Court otherwise directs, be amended in such manner as may be necessary, and amended copies of the summons and of the plaint shall be served on the new defendant and, if the Court thinks fit, on the original defendant.

(5) Subject to the provisions of the Indian Limitation Act, 1877, section 22, the proceedings as against any person added as defendant shall be deemed to have begun only on the service of the summons.

XV of 1877.

11. The Court may give the conduct of the suit to such person as it deems proper.
Conduct of suit.

12. (1) Where there are more plaintiffs than one, any one or more of them may be authorized by any other of them to appear, plead or act for such other in any proceeding; and in like manner, where there are more defendants than one, any one or more of them may be authorized by any other of them to appear, plead or act for such other in any proceeding.
Appearance of one of several plaintiffs or defendants for others.

(2) The authority shall be in writing signed by the party giving it and shall be filed in Court.

13. All objections on the ground of non-joinder or misjoinder of parties shall be taken at the earliest possible opportunity and, in all cases where issues are settled, at or before such settlement, unless the ground of objection has subsequently arisen, and any such objection not so taken shall be deemed to have been waived.
Objections as to non-joinder or misjoinder.

ORDER II.

Frame of Suit.

1. Every suit shall as far as practicable be framed so as to afford ground for final decision upon the subjects in dispute and to prevent further litigation concerning them.
Frame of suit.

2. (1) Every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action; but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court.
Suit to include the whole claim.

(2) Where a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.
Relinquishment of part of claim.

(3) A person entitled to more than one relief in respect of the same cause of action may sue for all or any of such reliefs; but if he omits, except with the leave of the Court, to sue for all such reliefs, he shall not afterwards sue for any relief so omitted.
Omission to sue for one of several reliefs.

Explanation.—For the purposes of this rule an obligation and a collateral security for its performance and successive claims arising under the same obligation shall be deemed respectively to constitute but one cause of action.

The Code of Civil Procedure 1908.
(*The First Schedule.*)

(*Order II.—Frame of Suit. Order III.—Recognized Agents and Pleadings.*
Order IV.—Institution of Suits.)

Illustration.

A lets a house to B at a yearly rent of Rs. 1,200. The rent for the whole of the years 1905, 1906 and 1907 is due and unpaid. A sues B in 1908 only for the rent due for 1906. A shall not afterwards sue B for the rent due for 1905 or 1907.

3. Save as otherwise provided, a plaintiff may unite joinder of causes of action against the same defendant, or the same defendants jointly; and any plaintiffs having causes of action in which they are jointly interested against the same defendant or the same defendants jointly may unite such causes of action in the same suit.

(2) Where causes of action are united, the jurisdiction of the Court as regards the suit shall depend on the amount or value of the aggregate subject-matters at the date of instituting the suit.

4. No cause of action shall, unless with the leave of the Court, be joined with a suit for the recovery of immoveable property, except—

(a) claims for mesne profits or arrears of rent in respect of the property claimed or any part thereof;

(b) claims for damages for breach of any contract under which the property or any part thereof is held; and

(c) claims in which the relief sought is based on the same cause of action:

Provided that nothing in this rule shall be deemed to prevent any party in a suit for foreclosure or redemption from asking to be put into possession of the mortgaged property.

5. No claim by or against an executor, administrator or heir, as such, shall be joined with claims by or against him personally, unless the last-mentioned claims are alleged to arise with reference to the estate in respect of which the plaintiff or defendant sues or is sued as executor, administrator or heir, or are such as he was entitled to, or liable for, jointly with the deceased person whom he represents.

6. Where it appears to the Court that any causes of action joined in one suit cannot be conveniently tried or disposed of together, the Court may order separate trials or make such other order as may be expedient.

7. All objections on the ground of misjoinder of causes of action shall be taken at the earliest possible opportunity and, in all cases where issues are settled, at or before such settlement, unless the ground of objection has subsequently arisen, and any such objection not so taken shall be deemed to have been waived.

ORDER III.

Recognized Agents and Pleadings.

1. Any appearance, application or act in or to any Court, required or authorized by law to be made or done by a party in such Court, may, except where otherwise expressly provided by any law for the time being in force, be made or done by the party in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf:

Provided that any such appearance shall, if the Court so directs, be made by the party in person.

2. The recognized agents of parties by whom such appearances, applications and acts may be made or done are—

- (a) persons holding powers-of-attorney, authorizing them to make and do such appearances, applications and acts on behalf of such parties;
- (b) persons carrying on trade or business for and in the names of parties not resident within the local limits of the jurisdiction of the Court within which limits the appearance, application or act is made or done, in matters connected with such trade or business only, where no other agent is expressly authorized to make and do such appearances, applications and acts.

3. (1) Processes served on the recognized agent of a party shall be as effectual as if the same had been served on the party in person, unless the Court otherwise directs.

(2) The provisions for the service of process on a party to a suit shall apply to the service of process on his recognized agent.

4. (1) The appointment of a pleader to make or do any appearance, application or act for any person shall be in writing, and shall be signed by such person or by his recognized agent or by some other person duly authorized by power-of-attorney to act in this behalf.

(2) Every such appointment, when accepted by a pleader, shall be filed in Court, and shall be considered to be in force until determined with the leave of the Court, by a writing signed by the client or the pleader, as the case may be, and filed in Court, or until the client or the pleader dies or until all proceedings in the suit are ended so far as regards the client.

(3) No advocate of any High Court established under the Indian High Courts Act, 1861, or of any Chief Court, and no advocate of any other High Court who is a barrister shall be required to present any document empowering him to act.

5. Any process served on the pleader of any party or left at the office or ordinary residence of such pleader, and whether the same is for the personal appearance of the party or not, shall be presumed to be duly communicated and made known to the party whom the pleader represents, and, unless the Court otherwise directs, shall be as effectual for all purposes as if the same had been given to or served on the party in person.

6. (1) Besides the recognized agents described in rule 2 any person residing within the jurisdiction of the Court may be appointed an agent to accept service of process.

(2) Such appointment may be special or general and shall be made by an instrument in writing signed by the principal, and such instrument or, if the appointment is general, a certified copy thereof shall be filed in Court.

ORDER IV.

Institution of Suits.

1. (1) Every suit shall be instituted by presenting a plaint to the Court or such officer as it appoints in this behalf.

(2) Every plaint shall comply with the rules contained in Orders VI and VII, so far as they are applicable.

2. The Court shall cause the particulars of every suit to be entered in a book to be kept for the purpose and called the register of civil suits. Such entries shall be numbered in every year according to the order in which the plaints are admitted.

*The Code of Civil Procedure, 1908.**(The First Schedule.)**(Order V.—Issue and Service of Summons.)*

ORDER V.

*Issue and Service of Summons.**Issue of Summons.*

1. (1) When a suit has been duly instituted a summons may be issued to the defendant to appear and answer the claim on a day to be therein specified:

Provided that no such summons shall be issued when the defendant has appeared at the presentation of the plaint and admitted the plaintiff's claim.

(2) A defendant to whom a summons has been issued under sub-rule (1) may appear—

(a) in person, or

(b) by a pleader duly instructed and able to answer all material questions relating to the suit, or

(c) by a pleader accompanied by some person able to answer all such questions.

(3) Every such summons shall be signed by the Judge or such officer as he appoints, and shall be sealed with the seal of the Court.

2. Every summons shall be accompanied by a copy of the plaint or, if so permitted, by a concise statement annexed to summons.

3. (1) Where the Court sees reason to require the personal appearance of the defendant, the summons shall order him to appear in person in Court on the day therein specified.

(2) Where the Court sees reason to require the personal appearance of the plaintiff on the same day, it shall make an order for such appearance.

4. No party shall be ordered to appear in person

unless he resides—
No party to be ordered to appear in person unless resident within certain limits.

(a) within the local limits of the Court's ordinary original jurisdiction, or

(b) without such limits but at a place less than fifty or (where there is railway or steamer communication or other established public conveyance for five-sixths of the distance between the place where he resides and the place where the Court is situate), less than two hundred miles distance from the court-house.

5. The Court shall determine, at the time of issuing the summons, whether it shall be for the settlement of issues only, or for the final disposal of the suit; and the summons shall contain a direction accordingly:

Provided that, in every suit heard by a Court of Small Causes, the summons shall be for the final disposal of the suit.

6. The day for the appearance of the defendant shall be fixed with reference to the current business of the Court, the place of residence of the defendant and the time necessary for the service of the summons; and the day shall be so fixed as to allow the defendant sufficient time to enable him to appear and answer on such day.

7. The summons to appear and answer shall order the defendant to produce all documents in his possession or power upon which he intends to rely in support of his case.

8. Where the summons is for the final disposal of the suit, it shall also direct the defendant to produce, on the day fixed for his appearance, all witnesses upon whose evidence he intends to rely in support of his case.

On issue of summons for final disposal, defendant to be directed to produce his witnesses.

Service of Summons.

9. (1) Where the defendant resides within the jurisdiction of the Court in which the suit is instituted, or has an agent resident within that jurisdiction who is empowered to accept the service of the summons, the summons shall, unless the Court otherwise directs, be delivered or sent to the proper officer to be served by him or one of his subordinates.

(2) The proper officer may be an officer of a Court other than that in which the suit is instituted, and, where he is such an officer, the summons may be sent to him by post or in such other manner as the Court may direct.

10. Service of the summons shall be made by delivering or tendering a copy thereof signed by the Judge or such officer as he appoints in this behalf, and sealed with the seal of the Court.

11. Save as otherwise prescribed, where there are more defendants than one, service of the summons shall be made on each defendant.

12. Wherever it is practicable, service shall be made on the defendant in person, unless he has an agent empowered to accept service, in which case service on such agent shall be sufficient.

13. (1) In a suit relating to any business or work against a person who does not reside within the local limits of the jurisdiction of the Court from which the summons is issued, service on any manager or agent, who, at the time of service, personally carries on such business or work for such person within such limits, shall be deemed good service.

(2) For the purpose of this rule the master of a ship shall be deemed to be the agent of the owner or charterer.

14. Where in a suit to obtain relief respecting, or compensation for wrong to, immoveable property, service cannot be made on the defendant in person, and the defendant has no agent empowered to accept the service, it may be made on any agent of the defendant in charge of the property.

15. Where in any suit the defendant cannot be found and has no agent empowered to accept service of the summons on his behalf, service may be made on any adult male member of the family of the defendant who is residing with him.

Explanation.—A servant is not a member of the family within the meaning of this rule.

16. Where the serving officer delivers or tenders a copy of the summons to the defendant personally, or to an agent or other person on his behalf, he shall require the signature of the person to

The Code of Civil Procedure, 1908.
(The First Schedule.)

(Order V.—Issue and Service of Summons.)

whom the copy is so delivered or tendered to an acknowledgment of service endorsed on the original summons.

17. Where the defendant or his agent or such other person as aforesaid refuses to accept service, or cannot be found, the serving officer, after using all due and reasonable diligence, cannot find the defendant, and there is no agent empowered to accept service of the summons on his behalf, nor any other person on whom service can be made, the serving officer shall affix a copy of the summons on the outer door or some other conspicuous part of the house in which the defendant ordinarily resides or carries on business or personally works for gain, and shall then return the original to the Court from which it was issued, with a report endorsed thereon or annexed thereto stating that he has so affixed the copy, the circumstances under which he did so, and the name and address of the person (if any) by whom the house was identified and in whose presence the copy was affixed.

18. The serving officer shall, in all cases in which the summons has been served under rule 16, endorse or annex, or cause to be endorsed or annexed, on or to the original summons, a return stating the time when and the manner in which the summons was served, and the name and address of the person (if any) identifying the person served and witnessing the delivery or tender of the summons.

19. Where a summons is returned under rule 17, the Court shall, if the return under that rule has not been verified by the affidavit of the serving officer, and may, if it has been so verified, examine the serving officer on oath, or cause him to be so examined by another Court, touching his proceedings, and may make such further inquiry in the matter as it thinks fit; and shall either declare that the summons has been duly served or order such service as it thinks fit.

20. (1) Where the Court is satisfied that there is reason to believe that the defendant is keeping out of the way for the purpose of avoiding service, or that for any other reason the summons cannot be served in the ordinary way, the Court shall order the summons to be served by affixing a copy thereof in some conspicuous place in the Court-house, and also upon some conspicuous part of the house (if any) in which the defendant is known to have last resided or carried on business or personally worked for gain, or in such other manner as the Court thinks fit.

(2) Service substituted by order of the Court shall be as effectual as if it had been made on the defendant personally.

(3) Where service is substituted by order of the Court, the Court shall fix such time for the appearance of the defendant as the case may require.

21. A summons may be sent by the Court by which it is issued, whether within or without the province, either by one of its officers or by post to any Court (not being the High Court) having jurisdiction in the place where the defendant resides.

22. Where a summons issued by any Court established beyond the limits of the towns of Calcutta, Madras, Bombay and Rangoon is to be served within any such limits, it shall be sent to the Court of Small Causes within whose jurisdiction it is to be served.

23. The Court to which a summons is sent under rule 21 or rule 22 shall, upon receipt thereof, proceed as if it had been issued by such Court and shall then return the summons to the Court of issue, together with the record (if any) of its proceedings with regard thereto.

24. Where the defendant is confined in a prison, the summons shall be delivered or sent by post or otherwise to the officer in charge of the prison for service on the defendant.

25. Where the defendant resides out of British India and has no agent in British India empowered to accept service, the summons shall be addressed to the defendant at the place where he is residing and sent to him by post, if there is postal communication between such place and the place where the Court is situate.

Service in foreign territory through Political Agent or Court.

26. Where—

- (a) in the exercise of any foreign jurisdiction vested in His Majesty or in the Governor General in Council, a Political Agent has been appointed, or a Court has been established or continued, with power to serve a summons issued by a Court under this Code in any foreign territory in which the defendant resides, or
- (b) the Governor General in Council has, by notification in the Gazette of India, declared that any summons so issued may be served by any Court situate in any such territory and not established or continued in the exercise of any such jurisdiction as aforesaid,

the summons may be sent to such Political Agent or Court, by post or otherwise, for the purpose of being served upon the defendant; and, if the Political Agent or Court returns the summons with an endorsement signed by such Political Agent or by the Judge or other officer of the Court that the summons has been served on the defendant in manner hereinbefore directed, such endorsement shall be deemed to be evidence of service.

27. Where the defendant is a public officer (not belonging to His Majesty's military or naval forces or His Majesty's Indian Marine Service), or is the servant of a railway company or local authority, the Court may, if it appears to it that the summons may be most conveniently so served, send it for service on the defendant to the head of the office in which he is employed, together with a copy to be retained by the defendant.

28. Where the defendant is a soldier, the Court shall send the summons for service to his commanding officer together with a copy to be retained by the defendant.

29. (1) Where a summons is delivered or sent to any person for service under rule 24, rule 27 or rule 28, such person shall be bound to serve it, if possible, and to return it under his signature, with the written acknowledgment of the defendant, and such signature shall be deemed to be evidence of service.

(2) Where from any cause service is impossible, the summons shall be returned to the Court with a full statement of such cause and of the steps taken to procure service, and such statement shall be deemed to be evidence of non-service.

30. (1) The Court may, notwithstanding anything hereinbefore contained, substitute for a summons a letter signed by the Judge or such officer as he may appoint in this behalf, where the defendant is, in the opinion of the Court, of a rank entitling him to such mark of consideration.

*The Code of Civil Procedure 1908.**(The First Schedule.)**(Order VI.—Pleadings generally. Order VII.—Plaint.)*

(2) A letter substituted under sub-rule (1) shall contain all the particulars required to be stated in a summons, and, subject to the provisions of sub-rule (3), shall be treated in all respects as a summons.

(3) A letter so substituted may be sent to the defendant by post or by a special messenger selected by the Court, or in any other manner which the Court thinks fit; and, where the defendant has an agent empowered to accept service, the letter may be delivered or sent to such agent.

ORDER VI.

Pleadings generally.

Pleading. 1. "Pleading" shall mean
plaint or written statement.

2. Every pleading shall contain, and contain only, a statement in a concise form of the material facts on which the party pleading relies for his claim or defence, as the case may be, but not the evidence by which they are to be proved, and shall, when necessary, be divided into paragraphs, numbered consecutively. Dates, sums and numbers shall be expressed in figures.

3. The forms in Appendix A when applicable, and where they are not applicable forms of the like character, as nearly as may be, shall be used for all pleadings.

4. In all cases in which the party pleading relies on any misrepresentation, fraud, breach of trust, wilful default, or undue influence, and in all other cases in which particulars may be necessary beyond such as are exemplified in the forms aforesaid, particulars (with dates and items if necessary) shall be stated in the pleading.

5. A further and better statement of the nature of the claim or defence, or further and better particulars of any matter stated in any pleading, may in all cases be ordered, upon such terms, as to costs and otherwise, as may be just.

6. Any condition precedent, the performance or occurrence of which is intended to be contested, shall be distinctly specified in his pleading by the plaintiff or defendant, as the case may be; and, subject thereto, an averment of the performance or occurrence of all conditions precedent necessary for the case of the plaintiff or defendant shall be implied in his pleading.

7. No pleading shall, except by way of amendment, raise any new ground of claim or contain any allegation of fact inconsistent with the previous pleadings of the party pleading the same.

8. Where a contract is alleged in any pleading, a bare denial of the same by the opposite party shall be construed only as a denial in fact of the express contract alleged or of the matters of fact from which the same may be implied, and not as a denial of the legality or sufficiency in law of such contract.

9. Wherever the contents of any document are material, it shall be sufficient in any pleading to state the effect thereof as briefly as possible, without setting out the whole or any part thereof, unless the precise words of the document or any part thereof are material.

10. Wherever it is material to allege malice, fraudulent intention, knowledge or other condition of the mind of any person, it shall be sufficient to allege the same as a fact without setting out the circumstances from which the same is to be inferred.

11. Wherever it is material to allege notice to any person of any fact, matter or thing, it shall be sufficient to allege such notice as a fact, unless the form or the precise terms of such notice, or the circumstances from which such notice is to be inferred, are material.

12. Whenever any contract or any relation between any persons is to be implied from an implied contract, or a series of letters or conversations or otherwise from a number of circumstances, it shall be sufficient to allege such contract or relation as a fact, and to refer generally to such letters, conversations or circumstances without setting them out in detail. And if in such case the person so pleading desires to rely in the alternative upon more contracts or relations than one as to be implied from such circumstances, he may state the same in the alternative.

13. Neither party need in any pleading allege any matter of fact which the law presumes in his favour or as to which the burden of proof lies upon the other side unless the same has first been specifically denied, (e.g., consideration for a bill of exchange where the plaintiff sues only on the bill, and not for the consideration as a substantive ground of claim).

14. Every pleading shall be signed by the party and his pleader (if any): Provided that where a party pleading is, by reason of absence or for other good cause, unable to sign the pleading, it may be signed by any person duly authorized by him to sign the same or to sue or defend on his behalf.

15. (1) Save as otherwise provided by any law for the time being in force, every pleading shall be verified at the foot by the party or by one of the parties pleading or by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case.

(2) The person verifying shall specify, by reference to the numbered paragraphs of the pleading, what he verifies of his own knowledge and what he verifies upon information received and believed to be true.

(3) The verification shall be signed by the person making it and shall state the date on which and the place at which it was signed.

16. The Court may at any stage of the proceedings order to be struck out or amended any matter in any pleading which may be unnecessary or scandalous or which may tend to prejudice, embarrass or delay the fair trial of the suit.

17. The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.

18. If a party who has obtained an order for leave to amend does not amend accordingly within the time limited for that purpose by the order, or if no time is thereby limited then within fourteen days from the date of the order, he shall not be permitted to amend after the expiration of such limited time as aforesaid or of such fourteen days, as the case may be, unless the time is extended by the Court.

ORDER VII.

Plaint.

1. The plaintiff shall contain the following particulars:—

(a) the name of the Court in which the suit is brought

*The Code of Civil Procedure, 1908.**(The First Schedule.)**(Order XI.—Discovery and Inspection.)*

14. It shall be lawful for the Court, at any time during the pendency of any suit, to order the production by any party thereto, upon oath, of such of the documents in his possession or power, relating to any matter in question in such suit, as the Court shall think right; and the Court may deal with such documents, when produced, in such manner as shall appear just.

15. Every party to a suit shall be entitled at any time to give notice to any other party, in whose pleadings or affidavits reference is made to any document, to produce such document for the inspection of the party giving such notice, or of his pleader, and to permit him or them to take copies thereof; and any party not complying with such notice shall not afterwards be at liberty to put any such document in evidence on his behalf in such suit unless he shall satisfy the Court that such document relates only to his own title, he being a defendant to the suit, or that he had some other cause or excuse which the Court shall deem sufficient for not complying with such notice, in which case the Court may allow the same to be put in evidence on such terms as to costs and otherwise as the Court shall think fit.

16. Notice to any party to produce any documents referred to in his pleading or affidavits shall be in Form No. 7 in Appendix C, with such variations as circumstances may require.

17. The party to whom such notice is given shall, within ten days from the receipt of such notice, deliver to the party giving the same a notice stating a time within three days from the delivery thereof at which the documents, or such of them as he does not object to produce, may be inspected at the office of his pleader, or in the case of bankers' books or other books of account or books in constant use for the purposes of any trade or business, at their usual place of custody, and stating which (if any) of the documents he objects to produce, and on what ground. Such notice shall be in Form No. 8 in Appendix C, with such variations as circumstances may require.

18. (1) Where the party served with notice under rule 15 omits to give such notice of a time for inspection or objects to give inspection, or offers inspection elsewhere than at the office of his pleader, the Court may, on the application of the party desiring it, make an order for inspection in such place and in such manner as it may think fit: Provided that the order shall not be made when and so far as the Court shall be of opinion that it is not necessary either for disposing fairly of the suit or for saving costs.

(2) Any application to inspect documents, except such as are referred to in the pleadings, particulars or affidavits of the party against whom the application is made or disclosed in his affidavit of documents, shall be founded upon an affidavit showing of what documents inspection is sought, that the party applying is entitled to inspect them, and that they are in the possession or power of the other party. The Court shall not make such order for inspection of such documents when and so far as the Court shall be of opinion that it is not necessary either for disposing fairly of the suit or for saving costs.

19. (1) Where inspection of any business books is applied for, the Court may, if it thinks fit, instead of ordering inspection of the original books, order a copy of any entries therein to be furnished and verified by the affidavit of some person who has examined the copy with the original entries, and such affidavit shall state whether or not there are in the original book any and what erasures, interlineations or alterations: Provided that, notwithstanding that such copy has been supplied, the Court may order inspection of the book from which the copy was made.

(2) Where on an application for an order for inspection privilege is claimed for any document, it shall be lawful for the Court to inspect the document for the purpose of deciding as to the validity of the claim of privilege.

(3) The Court may, on the application of any party to a suit at any time, and whether an affidavit of documents shall or shall not have already been ordered or made, make an order requiring any other party to state by affidavit whether any one or more specific documents, to be specified in the application, is or are, or has or have at any time been, in his possession or power; and, if not then in his possession, when he parted with the same and what has become thereof. Such application shall be made on an affidavit stating that in the belief of the deponent the party against whom the application is made has, or has at some time had, in his possession or power the document or documents specified in the application, and that they relate to the matters in question in the suit, or to some of them.

20. Where the party from whom discovery of any kind or inspection is sought objects to the same, or any part thereof, the Court may, if satisfied that the right to the discovery or inspection sought depends on the determination of any issue or question in dispute in the suit, or that for any other reason it is desirable that any issue or question in dispute in the suit should be determined before deciding upon the right to the discovery or inspection, order that such issue or question be determined first, and reserve the question as to the discovery or inspection.

21. Where any party fails to comply with any order to answer interrogatories, or for discovery or inspection of documents, he shall, if a plaintiff, be liable to have his suit dismissed for want of prosecution, and, if a defendant, to have his defence, if any, struck out, and to be placed in the same position as if he had not defended, and the party interrogating or seeking discovery or inspection may apply to the Court for an order to that effect, and an order may be made accordingly.

22. Any party may, at the trial of a suit, use in evidence any one or more of the answers or any part of an answer of the opposite party to interrogatories without putting in the others or the whole of such answer: Provided always that in such case the Court may look at the whole of the answers, and if it shall be of opinion that any others of them are so connected with those put in that the last-mentioned answers ought not to be used without them, it may direct them to be put in.

23. This Order shall apply to minor plaintiffs and defendants, and to the next friends and guardians for the suit of persons under disability.

*The Code of Civil Procedure, 1908.**(The First Schedule.)**(Order XII.—Admissions. Order XIII.—Production, Impounding and Return of Documents.)*

ORDER XII.

Admissions.

1. Any party to a suit may give notice, by his pleading, or otherwise in writing, that he admits the truth of the whole or any part of the case of any other party.
Notice of admission of case.
2. Either party may call upon the other party to admit any document, saving all just exceptions; and in case of refusal or neglect to admit, after such notice, the costs of proving any such document shall be paid by the party so neglecting or refusing, whatever the result of the suit may be, unless the Court otherwise directs; and no costs of proving any document shall be allowed unless such notice is given, except where the omission to give the notice is, in the opinion of the Court, a saving of expense.
Notice to admit documents.
3. A notice to admit documents shall be in Form No. 9 in Appendix C, with such variations as circumstances may require.
Form of notice.
4. Any party may, by notice in writing, at any time not later than nine days before the day fixed for the hearing, call on any other party to admit, for the purposes of the suit only, any specific fact or facts mentioned in such notice. And in case of refusal or neglect to admit the same within six days after service of such notice, or within such further time as may be allowed by the Court, the costs of proving such fact or facts shall be paid by the party so neglecting or refusing, whatever the result of the suit may be, unless the Court otherwise directs: Provided that any admission made in pursuance of such notice is to be deemed to be made only for the purposes of the particular suit, and not as an admission to be used against the party on any other occasion or in favour of any person other than the party giving the notice: Provided also that the Court may at any time allow any party to amend or withdraw any admission so made on such terms as may be just.
Notice to admit facts.
5. A notice to admit facts shall be in Form No. 10 in Appendix C, and admissions of facts shall be in Form No. 11 in Appendix C, with such variations as circumstances may require.
Form of admissions.
6. Any party may at any stage of a suit, where admissions of fact have been made, either on the pleadings, or otherwise, apply to the Court for such judgment or order as upon such admissions he may be entitled to, without waiting for the determination of any other question between the parties: and the Court may upon such application make such order, or give such judgment, as the Court may think just.
Judgment on admissions.
7. An affidavit of the pleader or his clerk, of the due signature of any admissions made in pursuance of any notice to admit documents or facts, shall be sufficient evidence of such admissions, if evidence thereof is required.
Affidavit of signature.
8. Notice to produce documents shall be in Form No. 12 in Appendix C, with such variations as circumstances may require. An affidavit of the pleader, or his clerk, of the service of any notice to produce, and of the time when it was served, with a copy of the notice to produce, shall in all cases be sufficient evidence of the service of the notice, and of the time when it was served.
Notice to produce documents.
9. If a notice to admit or produce specifies documents which are not necessary, the costs occasioned thereby shall be borne by the party giving such notice.
** Costs.*

ORDER XIII.

Production, Impounding and Return of Documents.

1. (1) The parties or their pleaders shall produce, at the first hearing of the suit, all the documentary evidence of every description in their possession or power, on which they intend to rely, and which has not already been filed in

Court, and all documents which the Court has ordered to be produced.

(2) The Court shall receive the documents so produced: provided that they are accompanied by an accurate list thereof prepared in such form as the High Court directs.

2. No documentary evidence in the possession or power of any party which should have been but has not been produced in accordance with the requirements of rule 1 shall be received at any subsequent stage of the proceedings unless good cause is shown to the satisfaction of the Court for the non-production thereof; and the Court receiving any such evidence shall record the reasons for so doing.

3. The Court may at any stage of the suit reject any document which it considers irrelevant or otherwise inadmissible, recording the grounds of such rejection.
Rejection of irrelevant or inadmissible documents.

4. (1) Subject to the provisions of the next following sub-rule, there shall be endorsed on every document which has been admitted in evidence in the suit the following particulars, namely:—

- (a) the number and title of the suit,
- (b) the name of the person producing the document,
- (c) the date on which it was produced, and
- (d) a statement of its having been so admitted;

and the endorsement shall be signed or initialled by the Judge.

(2) Where a document so admitted is an entry in a book, account or record, and a copy thereof has been substituted for the original under the next following rule, the particulars aforesaid shall be endorsed on the copy and the endorsement thereon shall be signed or initialled by the Judge.

5. (1) Save in so far as is otherwise provided by the Bankers' Books Evidence Act, 1891, where a document admitted in evidence in the suit is an entry in a letter-book or a shop-book or other account in current use, the party on whose behalf the book or account is produced may furnish a copy of the entry.

VIII of 1891

(2) Where such a document is an entry in a public record produced from a public office or by a public officer, or an entry in a book or account belonging to a person other than a party on whose behalf the book or account is produced, the Court may require a copy of the entry to be furnished—

- (a) where the record, book or account is produced on behalf of a party, then by that party, or
- (b) where the record, book or account is produced in obedience to an order of the Court acting of its own motion, then by either or any party.

(3) Where a copy of an entry is furnished under the foregoing provisions of this rule, the Court shall, after causing the copy to be examined, compared and certified in manner mentioned in rule 17 of Order VII, mark the entry and cause the book, account or record in which it occurs to be returned to the person producing it.

6. Where a document relied on as evidence by either party is considered by the Court to be inadmissible in evidence, there shall be endorsed thereon the particulars mentioned in clauses (a), (b) and (c) of rule 4, sub-rule (1), together with a statement of its having been rejected, and the endorsement shall be signed or initialled by the Judge.
Endorsements on documents rejected as inadmissible in evidence.

7. (1) Every document which has been admitted in evidence, or a copy thereof where a copy has been substituted for the original under rule 5, shall form part of the record of the suit.
Recording of admitted and return of rejected documents.

(2) Documents not admitted in evidence shall not form part of the record and shall be returned to the persons respectively producing them.

*The Code of Civil Procedure, 1908.**(The First Schedule.)**(Order XIII.—Production, Impounding and Return of Documents. Order XIV.—Settlement of Issues and Determination of Suit on Issues of Law or on Issues agreed upon.)*

8. Notwithstanding anything contained in rule 5 or rule 7 of this Order or in rule 17 of Order VII, the Court may, if it sees sufficient cause, direct any document or book produced before it in any suit to be impounded and kept in the custody of an officer of the Court, for such period and subject to such conditions as the Court thinks fit.

9. (1) Any person, whether a party to the suit or not, desirous of receiving back any document produced by him in the suit and placed on the record shall, unless the document is impounded under rule 8, be entitled to receive back the same,—

(a) where the suit is one in which an appeal is not allowed, when the suit has been disposed of, and

(b) where the suit is one in which an appeal is allowed, when the Court is satisfied that the time for preferring an appeal has elapsed and that no appeal has been preferred or, if an appeal has been preferred, when the appeal has been disposed of :

Provided that a document may be returned at any time earlier than that prescribed by this rule if the person applying therefor delivers to the proper officer a certified copy to be substituted for the original and undertakes to produce the original if required to do so :

Provided also that no document shall be returned which, by force of the decree, has become wholly void or useless.

(2) On the return of a document admitted in evidence a receipt shall be given by the person receiving it.

10. (1) The Court may of its own motion, and Court may send for may in its discretion upon the papers from its own application of any of the parties records or from other to a suit, send for, either from Courts. its own records or from any other Court, the record of any other suit or proceeding, and inspect the same.

(2) Every application made under this rule shall (unless the Court otherwise directs) be supported by an affidavit showing how the record is material to the suit in which the application is made, and that the applicant cannot without unreasonable delay or expense obtain a duly authenticated copy of the record or of such portion thereof as the applicant requires, or that the production of the original is necessary for the purposes of justice.

(3) Nothing contained in this rule shall be deemed to enable the Court to use in evidence any document which under the law of evidence would be inadmissible in the suit.

11. The provisions herein contained as to documents shall, so far as may be, apply to all other material objects producible as evidence.

ORDER XIV.*Settlement of Issues and Determination of Suit on Issues of Law or on Issues agreed upon.*

1. (1) Issues arise when a material proposition of fact or law is affirmed by the one party and denied by the other.

(2) Material propositions are those propositions of law or fact which a plaintiff must allege in order to show a right to sue or a defendant must allege in order to constitute his defence.

(3) Each material proposition affirmed by one party and denied by the other shall form the subject of a distinct issue.

(4) Issues are of two kinds: (a) issues of fact, (b) issues of law.

(5) At the first hearing of the suit the Court shall, after reading the plaint and the written statements, if any, and after such examination of the parties as may appear necessary, ascertain upon what material propositions of fact or of law the parties are at variance, and shall thereupon proceed to frame and record the issues on which the right decision of the case appears to depend.

(6) Nothing in this rule requires the Court to frame and record issues where the defendant at the first hearing of the suit makes no defence.

2. Where issues both of law and of fact arise in the same suit, and the Court is of opinion that the case or any part thereof may be disposed of on the issues of law only, it shall try those issues first, and for that purpose may, if it thinks fit, postpone the settlement of the issues of fact until after the issues of law have been determined.

3. The Court may frame the issues from all or any Materials from which of the following materials :—

(a) allegations made on oath by the parties, or by any persons present on their behalf, or made by the pleaders of such parties ;

(b) allegations made in the pleadings or in answers to interrogatories delivered in the suit ;

(c) the contents of documents produced by either party.

4. Where the Court is of opinion that the issues cannot be correctly framed without the examination of some person not before framing issues, before the Court or without the inspection of some document not produced in the suit, it may adjourn the framing of the issues to a future day, and may (subject to any law for the time being in force) compel the attendance of any person or the production of any document by the person in whose possession or power it is by summons or other process.

5. (1) The Court may at any time before passing a decree amend the issues or frame additional issues on such terms as it thinks fit, and all such amendments or additional issues as may be necessary for determining the matters in controversy between the parties shall be so made or framed.

(2) The Court may also, at any time before passing a decree, strike out any issues that appear to it to be wrongly framed or introduced.

6. Where the parties to a suit are agreed as to the question of fact or of law to be decided between them, they may state the same in the form of an issue, and enter into an agreement in writing that, upon the finding of the Court in the affirmative or the negative of such issue,—

(a) a sum of money specified in the agreement or to be ascertained by the Court, or in such manner as the Court may direct, shall be paid by one of the parties to the other of them, or that one of them be declared entitled to some right or subject to some liability specified in the agreement ;

(b) some property specified in the agreement and in dispute in the suit shall be delivered by one of the parties to the other of them, or as that other may direct ; or

(c) one or more of the parties shall do or abstain from doing some particular act specified in the agreement and relating to the matter in dispute.

7. Where the Court is satisfied, after making such inquiry as it deems proper,—

(a) that the agreement was duly executed by the parties,

(b) that the agreement was duly executed by the parties,

(c) that the agreement was duly executed by the parties,

(d) that the agreement was duly executed by the parties,

(e) that the agreement was duly executed by the parties,

(f) that the agreement was duly executed by the parties,

*The Code of Civil Procedure, 1908.**(The First Schedule.)**(Order XV.—Disposal of the Suit at the first hearing. Order XVI.—Summoning and Attendance of Witnesses.)*

(b) that they have a substantial interest in the decision of such question as aforesaid, and

(c) that the same is fit to be tried and decided,

it shall proceed to record and try the issue and state its finding or decision thereon in the same manner as if the issue had been framed by the Court;

and shall, upon the finding or decision on such issue, pronounce judgment according to the terms of the agreement; and, upon the judgment so pronounced, a decree shall follow.

ORDER XV.*Disposal of the Suit at the first hearing.*

1. Where at the first hearing of a suit it appears that the parties are not at issue on any question of law or of fact, the Court may at once pronounce judgment.

2. Where there are more defendants than one, and any one of the defendants is not at issue with the plaintiff on any question of law or of fact, the Court may at once pronounce judgment for or against such defendant and the suit shall proceed only against the other defendants.

3. (1) Where the parties are at issue on some question of law or of fact, and issues have been framed by the Court as hereinbefore provided, if the Court is satisfied that no further argument or evidence than the parties can at once adduce is required upon such of the issues as may be sufficient for the decision of the suit, and that no injustice will result from proceeding with the suit forthwith, the Court may proceed to determine such issues, and, if the finding thereon is sufficient for the decision, may pronounce judgment accordingly, whether the summons has been issued for the settlement of issues only or for the final disposal of the suit:

Provided that, where the summons has been issued for the settlement of issues only, the parties or their pleaders are present and none of them objects.

(2) Where the finding is not sufficient for the decision, the Court shall postpone the further hearing of the suit, and shall fix a day for the production of such further evidence, or for such further argument as the case requires.

4. Where the summons has been issued for the final disposal of the suit and either party fails without sufficient cause to produce the evidence on which he relies, the Court may at once pronounce judgment, or may, if it thinks fit, after framing and recording issues, adjourn the suit for the production of such evidence as may be necessary for its decision upon such issues.

ORDER XVI.*Summoning and Attendance of Witnesses.*

1. At any time after the suit is instituted, the parties may obtain, on application to the Court or to such officer as it appoints in this behalf, summonses to persons whose attendance is required either to give evidence or to produce documents.

2. (1) The party applying for a summons shall, before the summons is granted and to be paid into Court on applying for summons, pay into Court such a sum of money as appears to the Court to be sufficient to defray the travelling and other expenses of the person summoned in passing to and from the Court in which he is required to attend, and for one day's attendance.

(2) In determining the amount payable under this rule, the Court may, in the case of any person summoned to give evidence as an expert, allow reasonable remuneration for the time occupied both in giving evidence and in performing any work of an expert character necessary for the case.

(3) Where the Court is subordinate to a High Court regard shall be had, in fixing the scale of such expenses, to any rules made in that behalf.

3. The sum so paid into Court shall be tendered to the person summoned, at the time of serving the summons, if it can be served personally.

4. (1) Where it appears to the Court or to such officer as it appoints in this behalf that the sum paid into Court is not sufficient to cover such expenses or reasonable remuneration, the Court may direct such further sum to be paid to the person summoned as appears to be necessary on that account, and, in case of default in payment, may order such sum to be levied by attachment and sale of the moveable property of the party obtaining the summons; or the Court may discharge the person summoned without requiring him to give evidence; or may both order such levy and discharge such person as aforesaid.

(2) Where it is necessary to detain the person summoned for a longer period than one day, the Court may, from time to time, order the party at whose instance he was summoned to pay into Court such sum as is sufficient to defray the expenses of his detention for such further period, and, in default of such deposit being made, may order such sum to be levied by attachment and sale of the moveable property of such party; or the Court may discharge the person summoned without requiring him to give evidence; or may both order such levy and discharge such person as aforesaid.

5. Every summons for the attendance of a person to give evidence or to produce a document shall specify the time and place at which he is required to attend, and also whether his attendance is required for the purpose of giving evidence or to produce a document, or for both purposes; and any particular document, which the person summoned is called on to produce, shall be described in the summons with reasonable accuracy.

6. Any person may be summoned to produce a document, without being summoned to give evidence; and any person summoned merely to produce a document shall be deemed to have complied with the summons if he causes such document to be produced instead of attending personally to produce the same.

7. Any person present in Court may be required by the Court to give evidence or to produce any document then and there in his possession or power.

8. Every summons under this Order shall be served as nearly as may be in the same manner as a summons to a defendant, and the rules in Order V as to proof of service shall apply in the case of all summonses served under this rule.

9. Service shall in all cases be made a sufficient time before the time specified in the summons for the attendance of the person summoned, to allow him a reasonable time for preparation and for travelling to the place at which his attendance is required.

10. (1) Where a person to whom a summons has been issued either to attend to give evidence or to produce a document fails to attend or to produce the document in compliance with such summons, the Court shall, if the certificate of the serving-officer has not been verified by affidavit, and may, if it has been so verified, examine the serving-officer on oath, or cause him to be so examined by another Court, touching the service or non-service of the summons.

*The Code of Civil Procedure, 1908.**(The First Schedule.)**(Order XVI.—Summoning and Attendance of Witnesses. Order XVII.—Adjournments.)*

(2) Where the Court sees reason to believe that such evidence or production is material, and that such person has, without lawful excuse, failed to attend or to produce the document in compliance with such summons or has intentionally avoided service, it may issue a proclamation requiring him to attend to give evidence or to produce the document at a time and place to be named therein; and a copy of such proclamation shall be affixed on the outer door or other conspicuous part of the house in which he ordinarily resides.

(3) In lieu of or at the time of issuing such proclamation, or at any time afterwards, the Court may, in its discretion, issue a warrant, either with or without bail, for the arrest of such person, and may make an order for the attachment of his property to such amount as it thinks fit, not exceeding the amount of the costs of attachment and of any fine which may be imposed under rule 12:

Provided that no Court of Small Causes shall make an order for the attachment of immoveable property.

11. Where, at any time after the attachment of his property, such person appears and satisfies the Court,—
If witness appears, attachment may be withdrawn.

(a) that he did not, without lawful excuse, fail to comply with the summons or intentionally avoid service, and,

(b) where he has failed to attend at the time and place named in a proclamation issued under the last preceding rule, that he had no notice of such proclamation in time to attend,

the Court shall direct that the property be released from attachment, and shall make such order as to the costs of the attachment as it thinks fit.

12. The Court may, where such person does not appear, or appears but fails so to satisfy the Court, impose upon him such fine not exceeding five hundred rupees as it thinks fit, having regard to his condition in life and all the circumstances of the case, and may order his property, or any part thereof, to be attached and sold or, if already attached under rule 10, to be sold for the purpose of satisfying all costs of such attachment, together with the amount of the said fine, if any:

Provided that, if the person whose attendance is required pays into Court the costs and fine aforesaid, the Court shall order the property to be released from attachment.

13. The provisions with regard to the attachment and sale of property in the execution of a decree shall, so far as they are applicable, be deemed to apply to any attachment and sale under this Order as if the person whose property is so attached were a judgment-debtor.

14. Subject to the provisions of this Code as to attendance and appearance and to any law for the time being in force, where the Court at any time thinks it necessary to examine any person other than a party to the suit and not called as a witness by a party to the suit, the Court may, of its own motion, cause such person to be summoned as a witness to give evidence, or to produce any document in his possession, on a day to be appointed, and may examine him as a witness or require him to produce such document.

15. Subject as last aforesaid, whoever is summoned to appear and give evidence in a suit shall attend at the time and place named in the summons for that purpose, and whoever is summoned to produce a document shall either attend to produce it, or cause it to be produced, at such time and place.

16. (1) A person so summoned and attending shall, unless the Court otherwise directs, attend at each hearing until the suit has been disposed of.

(2) On the application of either party and the payment through the Court of all necessary expenses (if any), the Court may require any person so summoned and attending to furnish security to attend at the next or any other hearing or until the suit is disposed of and, in default of his furnishing such security, may order him to be detained in the civil prison.

17. The provisions of rules 10 to 13 shall, so far as they are applicable, be deemed to apply to any person who having attended in compliance with a summons departs, without lawful excuse, in contravention of rule 16.

18. Where any person arrested under a warrant is brought before the Court in custody and cannot, owing to the absence of the parties or any of them, give the evidence or produce the document which he has been summoned to give or produce, the Court may require him to give reasonable bail or other security for his appearance at such time and place as it thinks fit, and, on such bail or security being given, may release him, and, in default of his giving such bail or security, may order him to be detained in the civil prison.

19. No one shall be ordered to attend in person to give evidence unless he resides—
No witness to be ordered to attend in person unless resident within certain limits.

(a) within the local limits of the Court's ordinary original jurisdiction, or

(b) without such limits but at a place less than fifty or (where there is railway or steamer communication or other established public conveyance for five-sixths of the distance between the place where he resides and the place where the Court is situate) less than two hundred miles distance from the Court-house.

20. Where any party to a suit present in Court refuses, without lawful excuse, when required by the Court, to give evidence or to produce any document then and there in his possession or power, the Court may pronounce judgment against him or make such order in relation to the suit as it thinks fit.

21. Where any party to a suit is required to give evidence or to produce a document, the provisions as to witnesses shall apply to him so far as they are applicable.

ORDER XVII.

Adjournments.

1. (1) The Court may, if sufficient cause is shown, at any stage of the suit grant time to the parties or to any of them, and may from time to time adjourn the hearing of the suit.

(2) In every such case the Court shall fix a day for the further hearing of the suit, and may make such order as it thinks fit with respect to the costs occasioned by the adjournment.

Provided that, when the hearing of evidence has once begun, the hearing of the suit shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the hearing beyond the following day to be necessary for reasons to be recorded.

2. Where, on any day to which the hearing of the suit is adjourned, the parties or any of them fail to appear, the Court may proceed to dispose of the suit in one of the modes directed in that behalf by Order IX or make such other order as it thinks fit.

*The Code of Civil Procedure 1908.**(The First Schedule.)**(Order XVII.—Adjournments. Order XVIII.—Hearing of the Suit and Examination of Witnesses.)*

3. Where any party to a suit to whom time has been granted fails to produce his evidence, or to cause the attendance of his witnesses, or to perform any other act necessary to the further progress of the suit, for which time has been allowed, the Court may, notwithstanding such default, proceed to decide the suit forthwith.

Court may proceed notwithstanding either party fails to produce evidence, etc.

granted fails to produce his evidence, or to cause the attendance of his witnesses, or to perform any other act necessary to the further progress of the suit,

ORDER XVIII.

Hearing of the Suit and Examination of Witnesses.

1. The plaintiff has the right to begin unless the defendant admits the facts alleged by the plaintiff and contends that either in point of law or on some additional facts alleged by the defendant the plaintiff is not entitled to any part of the relief which he seeks, in which case the defendant has the right to begin.

2. (1) On the day fixed for the hearing of the suit or on any other day to which the hearing is adjourned, the party having the right to begin shall state his case and produce his evidence in support of the issues which he is bound to prove.

(2) The other party shall then state his case and produce his evidence (if any) and may then address the Court generally on the whole case.

(3) The party beginning may then reply generally on the whole case.

3. Where there are several issues, the burden of proving some of which lies on the other party, the party beginning may, at his option, either produce his evidence on those issues or reserve it by way of answer to the evidence produced by the other party; and, in the latter case, the party beginning may produce evidence on those issues after the other party has produced all his evidence, and the other party may then reply specially on the evidence so produced by the party beginning; but the party beginning will then be entitled to reply generally on the whole case.

4. The evidence of the witnesses in attendance shall be taken orally in open Court in the presence and under the personal direction and superintendence of the Judge.

5. In cases in which an appeal is allowed the evidence of each witness shall be taken down in writing, in the language of the Court, by or in the presence and under the personal direction and superintendence of the Judge, not ordinarily in the form of question and answer, but in that of a narrative, and, when completed, shall be read over in the presence of the Judge and of the witness, and the Judge shall, if necessary, correct the same, and shall sign it.

6. Where the evidence is taken down in a language different from that in which it is given, and the witness does not understand the language in which it is taken down, the evidence as taken down in writing shall be interpreted to him in the language in which it is given.

7. Evidence taken down under section 138 shall be in the form prescribed by rule 5 and shall be read over and signed and, as occasion may require, interpreted and corrected as if it were evidence taken down under that rule.

8. Where the evidence is not taken down in writing by the Judge, he shall be bound, as the examination of each witness proceeds, to make a memo-

randum of the substance of what each witness deposes, and such memorandum shall be written and signed by the Judge and shall form part of the record.

9. Where English is not the language of the Court, When evidence may be taken in English, but all the parties to the suit who appear in person, and the pleaders of such as appear by pleaders, do not object to have such evidence as is given in English taken down in English, the Judge may so take it down.

10. The Court may, of its own motion or on the application of any party or his pleader, take down any particular question and answer, or any objection to any question, if there appears to be any special reason for so doing.

11. Where any question put to a witness is objected to by a party or his pleader, and the Court allows the same to be put, the Judge shall take down the question, the answer, the objection and the name of the person making it, together with the decision of the Court thereon.

12. The Court may record such remarks as it thinks material respecting the demeanour of any witness while under examination.

13. In cases in which an appeal is not allowed, it shall not be necessary to take down the evidence of the witnesses in writing at length; but the Judge, as the examination of each witness proceeds, shall make a memorandum of the substance of what he deposes, and such memorandum shall be written and signed by the Judge and shall form part of the record.

14. (1) Where the Judge is unable to make a memorandum as required by this Order, he shall cause the reason of such inability to be recorded, and shall cause the memorandum to be made in writing from his dictation in open Court.

(2) Every memorandum so made shall form part of the record.

15. (1) Where a Judge is prevented by death, transfer or other cause from concluding the trial of a suit, his successor may deal with any evidence or memorandum taken down or made under the foregoing rules as if such evidence or memorandum had been taken down or made by him or under his direction under the said rules and may proceed with the suit from the stage at which his predecessor left it.

(2) The provisions of sub-rule (1) shall, so far as they are applicable, be deemed to apply to evidence taken in a suit transferred under section 24.

16. (1) Where a witness is about to leave the jurisdiction of the Court, or other sufficient cause is shown to the satisfaction of the Court why his evidence should be taken immediately, the Court may, upon the application of any party or of the witness, at any time after the institution of the suit, take the evidence of such witness in manner hereinbefore provided.

(2) Where such evidence is not taken forthwith and in the presence of the parties, such notice as the Court thinks sufficient, of the day fixed for the examination, shall be given to the parties.

(3) The evidence so taken shall be read over to the witness, and, if he admits it to be correct, shall be signed by him, and the Judge shall, if necessary, correct the same

*The Code of Civil Procedure, 1908.**(The First Schedule.)**(Order XVIII.—Hearing of the Suit and Examination of Witnesses. Order XIX.—Affidavits. Order XX.—Judgment and Decree.)*

and shall sign it, and it may then be read at any hearing of the suit.

17. The Court may at any stage of a suit recall any witness who has been examined and may (subject to the law of evidence for the time being in force) put such questions to him as the Court thinks fit.

18. The Court may at any stage of a suit inspect any property or thing concerning which any question may arise.

ORDER XIX.*Affidavits.*

1. Any Court may at any time for sufficient reason order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing, on such conditions as the Court thinks reasonable:

Provided that where it appears to the Court that either party *bona fide* desires the production of a witness for cross-examination, and that such witness can be produced, an order shall not be made authorizing the evidence of such witness to be given by affidavit.

2. (1) Upon any application evidence may be given by affidavit, but the Court may, at the instance of either party, order the attendance for cross-examination of the deponent.

(2) Such attendance shall be in Court, unless the deponent is exempted from personal appearance in Court, or the Court otherwise directs.

3. (1) Affidavits shall be confined to such facts as the deponent is able of his own knowledge to prove, except on interlocutory applications, on which statements of his belief may be admitted: provided that the grounds thereof are stated.

(2) The costs of every affidavit which shall unnecessarily set forth matters of hearsay or argumentative matter, or copies of or extracts from documents, shall (unless the Court otherwise directs) be paid by the party filing the same.

ORDER XX.*Judgment and Decree.*

1. The Court, after the case has been heard, shall pronounce judgment in open Court, either at once or on some future day, of which due notice shall be given to the parties or their pleaders.

2. A Judge may pronounce a judgment written but not pronounced by his predecessor.

3. The judgment shall be dated and signed by the Judge in open Court at the time of pronouncing it and, when once signed, shall not afterwards be altered or added to, save as provided by section 152 or on review.

4. (1) Judgments of a Court of Small Causes need not contain more than the points for determination and the decision thereon.

(2) Judgments of other Courts shall contain a concise statement of the case, the points for determination, the decision thereon, and the reasons for such decision.

5. In suits in which issues have been framed, the Court shall state its finding or decision, with the reasons therefor, upon each separate issue, unless the finding upon any one or more of the issues is sufficient for the decision of the suit.

6. (1) The decree shall agree with the judgment: it shall contain the number of the suit, the names and descriptions of the parties, and particulars of the claim, and shall specify clearly the relief granted or other determination of the suit.

(2) The decree shall also state the amount of costs incurred in the suit, and by whom or out of what property and in what proportions such costs are to be paid.

(3) The Court may direct that the costs payable to one party by the other shall be set off against any sum which is admitted or found to be due from the former to the latter.

7. The decree shall bear date the day on which the judgment was pronounced, and, when the Judge has satisfied himself that the decree has been drawn up in accordance with the judgment, he shall sign the decree.

8. Where a Judge has vacated office after pronouncing judgment but without signing the decree, a decree drawn up in accordance with such judgment may be signed by his successor or, if the Court has ceased to exist, by the Judge of any Court to which such Court was subordinate.

9. Where the subject-matter of the suit is immovable property, the decree shall contain a description of such property sufficient to identify the same, and where such property can be identified by boundaries or by numbers in a record of settlement or survey, the decree shall specify such boundaries or numbers.

10. Where the suit is for moveable property, and the decree is for the delivery of such property, the decree shall also state the amount of money to be paid as an alternative if delivery cannot be had.

11. (1) Where and in so far as a decree is for the payment of money, the Court may for any sufficient reason at the time of passing the decree order that payment of the amount decreed shall be postponed or shall be made by instalments, with or without interest, notwithstanding anything contained in the contract under which the money is payable.

(2) After the passing of any such decree the Court may, on the application of the judgment-debtor and with the consent of the decree-holder, order that payment of the amount decreed shall be postponed or shall be made by instalments on such terms as to the payment of interest, the attachment of the property of the judgment-debtor, or the taking of security from him, or otherwise, as it thinks fit.

12. (1) Where a suit is for the recovery of possession of immovable property and for rent or mesne profits, the Court may pass a decree—

(a) for the possession of the property;

(b) for the rent or mesne profits which have accrued on the property during a period prior to the institution of the suit or directing an inquiry as to such rent or mesne profits;

(c) directing an inquiry as to rent or mesne profits from the institution of the suit until—

(i) the delivery of possession to the decree-holder,

(ii) the relinquishment of possession by the judgment-debtor with notice to the decree-holder through the Court, or

(iii) the expiration of three years from the date of the decree,

whichever event first occurs.

*The Code of Civil Procedure, 1908.**(The First Schedule.)**(Order XX.—Judgment and Decree. Order XXI.—Execution of Decrees and Orders.)*

(2) Where an inquiry is directed under clause (b) or clause (c) a final decree in respect of the rent or mesne profits shall be passed in accordance with the result of such inquiry.

13. (1) Where a suit is for an account of any property and for its due administration under the decree of the Court, the Court shall, before passing the final decree, pass a preliminary decree ordering such accounts and inquiries to be taken and made, and giving such other directions as it thinks fit.

(2) In the administration by the Court of the property of any deceased person, if such property proves to be insufficient for the payment in full of his debts and liabilities, the same rules shall be observed as to the respective rights of secured and unsecured creditors and as to debts and liabilities proveable, and as to the valuation of annuities and future and contingent liabilities respectively, as may be in force for the time being within the local limits of the Court in which the administration-suit is pending with respect to the estates of persons adjudged or declared insolvent; and all persons, who in any such case would be entitled to be paid out of such property, may come in under the preliminary decree, and make such claims against the same as they may respectively be entitled to by virtue of this Code.

14. (1) Where the Court decrees a claim to pre-emption in respect of a particular sale of property and the purchase-money has not been paid into Court, the decree shall—

(a) specify a day on or before which the purchase-money shall be so paid, and

(b) direct that on payment into Court of such purchase-money, together with the costs (if any) decreed against the plaintiff, on or before the day referred to in clause (a), the defendant shall deliver possession of the property to the plaintiff, whose title thereto shall be deemed to have accrued from the date of such payment, but that, if the purchase-money and the costs (if any) are not so paid, the suit shall be dismissed with costs.

(2) Where the Court has adjudicated upon rival claims to pre-emption, the decree shall direct,—

(a) if and in so far as the claims decreed are equal in degree, that the claim of each pre-emptor complying with the provisions of sub-rule (1) shall take effect in respect of a proportionate share of the property including any proportionate share in respect of which the claim of any pre-emptor failing to comply with the said provisions would, but for such default, have taken effect; and,

(b) if and in so far as the claims decreed are different in degree, that the claim of the inferior pre-emptor shall not take effect unless and until the superior pre-emptor has failed to comply with the said provisions.

15. Where a suit is for the dissolution of a partnership, or the taking of partnership accounts, the Court, before passing a final decree, may pass a preliminary decree declaring the proportionate shares of the parties, fixing the day on which the partnership shall stand dissolved or be deemed to have been dissolved, and directing such accounts to be taken, and other acts to be done, as it thinks fit.

16. In a suit for an account of pecuniary transactions between a principal and an agent, and in any other suit not hereinbefore provided for, where it is necessary, in order to ascertain the amount of money due to or from any party, that an account should be taken, the Court shall, before passing its final decree, pass a preliminary decree directing such accounts to be taken as it thinks fit.

17. The Court may either by the decree directing an account to be taken or by any subsequent order give special directions with regard to the

Special directions as to accounts.

mode in which the account is to be taken or vouched and in particular may direct that in taking the account the books of account in which the accounts in question have been kept shall be taken as *prima facie* evidence of the truth of the matters therein contained with liberty to the parties interested to take such objection thereto as they may be advised.

18. Where the Court passes a decree for the partition of property or for the separate possession of a share therein, then,—

(1) if and in so far as the decree relates to an estate assessed to the payment of revenue to the Government, the decree shall declare the rights of the several parties interested in the property, but shall direct such partition or separation to be made by the Collector, or any gazetted subordinate of the Collector deputed by him in this behalf, in accordance with such declaration and with the provisions of section 54;

(2) if and in so far as such decree relates to any other immoveable property or to moveable property, the Court may, if the partition or separation cannot be conveniently made without further inquiry, pass a preliminary decree declaring the rights of the several parties interested in the property and giving such further directions as may be required.

19. (1) Where the defendant has been allowed a set-off against the claim of the plaintiff, the decree shall state what amount is due to the plaintiff and what amount is due to the defendant, and shall be for the recovery of any sum which appears to be due to either party.

(2) Any decree passed in a suit in which a set-off is claimed shall be subject to the same provisions in respect of appeal from decree relating to set-off, appeal to which it would have been subject if no set-off had been claimed.

(3) The provisions of this rule shall apply whether the set-off is admissible under rule 6 of Order VIII or otherwise.

20. Certified copies of the judgment and decree shall be furnished to the parties on application to the Court, and at their expense.

ORDER XXI.*Execution of Decrees and Orders.**Payment under Decree.*

1. (1) All money payable under a decree shall be paid as follows, namely:—

(a) into the Court whose duty it is to execute the decree; or

(b) out of Court to the decree-holder; or

(c) otherwise as the Court which made the decree directs.

(2) Where any payment is made under clause (a) of sub-rule (1) notice of such payment shall be given to the decree-holder.

2. (1) Where any money payable under a decree of any kind is paid out of Court, or the decree is otherwise adjusted in whole or in part to the satisfaction of the decree-holder, the decree-holder shall certify such payment or adjustment to the Court whose duty it is to execute the decree, and the Court shall record the same accordingly.

(2) The judgment-debtor also may inform the Court of such payment or adjustment, and apply to the Court to issue a notice to the decree-holder to show cause, on a day to be fixed by the Court, why such payment or adjustment should not be recorded as certified; and if, after service of such notice, the decree-holder fails to show cause why the payment or adjustment should not be recorded as certified, the Court shall record the same accordingly.

The Code of Civil Procedure, 1908.
(The First Schedule.)
(Order XXI.—Execution of Decrees and Orders.)

(3) A payment or adjustment, which has not been certified or recorded as aforesaid, shall not be recognized by any Court executing the decree.

Courts executing Decrees.

3. Where immoveable property forms one estate or tenure situate within the local limits of the jurisdiction of two or more Courts, any one of such Courts may attach and sell the entire estate or tenure.

4. Where a decree has been passed in a suit of which the value as set forth in the plaint did not exceed two thousand rupees and which, as regards its subject-matter, is not excepted by the law for the time being in force from the cognizance of either a Presidency or a Provincial Court of Small Causes, and the Court which passed it wishes it to be executed in Calcutta, Madras, Bombay or Rangoon, such Court may send to the Court of Small Causes in Calcutta, Madras, Bombay or Rangoon, as the case may be, the copies and certificates mentioned in rule 6; and such Court of Small Causes shall thereupon execute the decree as if it had been passed by itself.

5. Where the Court to which a decree is to be sent for execution is situate within the same district as the Court which passed such decree, such Court shall send the same directly to the former Court. But, where the Court to which the decree is to be sent for execution is situate in a different district, the Court which passed it shall send it to the District Court of the district in which the decree is to be executed.

6. The Court sending a decree for execution shall send—

(a) a copy of the decree;

(b) a certificate setting forth that satisfaction of the decree has not been obtained by execution within the jurisdiction of the Court by which it was passed, or, where the decree has been executed in part, the extent to which satisfaction has been obtained and what part of the decree remains unsatisfied; and

(c) a copy of any order for the execution of the decree, or, if no such order has been made, a certificate to that effect.

7. The Court to which a decree is so sent shall cause such copies and certificates to be filed, without any further proof of the decree or order for execution, or of the copies thereof, unless the Court, for any special reasons to be recorded under the hand of the Judge, requires such proof.

8. Where such copies are so filed, the decree or order may, if the Court to which it is sent is the District Court, be executed by such Court or be transferred for execution to any subordinate Court of competent jurisdiction.

9. Where the Court to which the decree is sent for execution is a High Court, the decree shall be executed by such Court in the same manner as if it had been passed by such Court in the exercise of its ordinary original civil jurisdiction.

Application for execution.

10. Where the holder of a decree desires to execute it, he shall apply to the Court which passed the decree or to the officer (if any) appointed in this behalf, or if the decree has been sent under the provisions hereinbefore contained to another Court then to such Court or to the proper officer thereof.

11. (1) Where a decree is for the payment of money the Court may, on the oral application of the decree-holder at the time of the passing of the decree, order immediate execution thereof by the arrest of the judgment-debtor, prior to the preparation of a warrant if he is within the precincts of the Court.

(2) Save as otherwise provided by sub-rule (1), every application for the execution of a decree shall be in writing, signed and verified by the applicant or by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case, and shall contain in a tabular form the following particulars, namely:—

- (a) the number of the suit;
- (b) the names of the parties;
- (c) the date of the decree;
- (d) whether any appeal has been preferred from the decree;
- (e) whether any, and (if any) what, payment or other adjustment of the matter in controversy has been made between the parties subsequently to the decree;
- (f) whether any, and (if any) what, previous applications have been made for the execution of the decree, the dates of such applications and their results;
- (g) the amount with interest (if any) due upon the decree, or other relief granted thereby, together with particulars of any cross-decree, whether passed before or after the date of the decree sought to be executed;
- (h) the amount of the costs (if any) awarded;
- (i) the name of the person against whom execution of the decree is sought; and
- (j) the mode in which the assistance of the Court is required, whether—
 - (i) by the delivery of any property specifically decreed;
 - (ii) by the attachment and sale, or by the sale without attachment, of any property;
 - (iii) by the arrest and detention in prison of any person;
 - (iv) by the appointment of a receiver;
 - (v) otherwise, as the nature of the relief granted may require.

(3) The Court to which an application is made under sub-rule (2) may require the applicant to produce a certified copy of the decree.

12. Where an application is made for the attachment of any moveable property belonging to a judgment-debtor but not in his possession, the decree-holder shall annex to the application an inventory of the property to be attached, containing a reasonably accurate description of the same.

13. Where an application is made for the attachment of any immoveable property belonging to a judgment-debtor, it shall contain, at the foot—

- (a) a description of such property sufficient to identify the same and, in case such property can be identified by boundaries or numbers in a record of settlement or survey, a specification of such boundaries or numbers; and
- (b) a specification of the judgment-debtor's share or interest in such property to the best of the belief of the applicant, and so far as he has been able to ascertain the same.

14. Where an application is made for the attachment of any land which is registered in the office of the Collector, the Court may require the applicant to produce a certified extract from the register of such office, specifying the persons registered as proprietors of, or as possessing, any transferable interest in, the land or its revenue, or as liable to pay revenue for the land, and the shares of the registered proprietors.

*The Code of Civil Procedure, 1908.**(The First Schedule.)**(Order XXI.—Execution of Decrees and Orders.)*

15. (1) Where a decree has been passed jointly in favour of more persons than one, any one or more of such persons may, unless the decree imposes any condition to the contrary, apply for the execution of the whole decree for the benefit of them all, or, where any of them has died, for the benefit of the survivors and the legal representatives of the deceased.

(2) Where the Court sees sufficient cause for allowing the decree to be executed on an application made under this rule it shall make such order as it deems necessary for protecting the interests of the persons who have not joined in the application.

16. Where a decree or, if a decree has been passed jointly in favour of two or more persons, the interest of any decree-holder in the decree is transferred by assignment in writing or by operation of law, the transferee may apply for execution of the decree to the Court which passed it; and the decree may be executed in the same manner and subject to the same conditions as if the application were made by such decree-holder:

Provided that, where the decree, or such interest as aforesaid, has been transferred by assignment, notice of such application shall be given to the transferor and the judgment-debtor, and the decree shall not be executed until the Court has heard their objections (if any) to its execution:

Provided also that, where a decree for the payment of money against two or more persons has been transferred to one of them, it shall not be executed against the others.

17. (1) On receiving an application for the execution of a decree as provided by rule 11, sub-rule (2), the Court shall ascertain whether such of the requirements of rules 11 to 14 as may be applicable to the case have been complied with; and, if they have not been complied with, the Court may reject the application, or may allow the defect to be remedied then and there or within a time to be fixed by it.

(2) Where an application is amended under the provisions of sub-rule (1), it shall be deemed to have been an application in accordance with law and presented on the date when it was first presented.

(3) Every amendment made under this rule shall be signed or initialled by the Judge.

(4) When the application is admitted, the Court shall enter in the proper register a note of the application and the date on which it was made, and shall, subject to the provisions hereinafter contained, order execution of the decree according to the nature of the application:

Provided that, in the case of a decree for the payment of money, the value of the property attached shall, as nearly as may be, correspond with the amount due under the decree.

18. (1) Where applications are made to a Court for the execution of cross-decrees in separate suits for the payment of two sums of money passed between the same parties and capable of execution at the same time by such Court, then—

(a) if the two sums are equal, satisfaction shall be entered upon both decrees; and

(b) if the two sums are unequal, execution may be taken out only by the holder of the decree for the larger sum and for so much only as remains after deducting the smaller sum, and satisfaction for the smaller sum shall be entered on the decree for the larger sum as well as satisfaction on the decree for the smaller sum.

(2) This rule shall be deemed to apply where either party is an assignee of one of the decrees and as well in respect of judgment-debts due by the original assignor as in respect of judgment-debts due by the assignee himself.

(3) This rule shall not be deemed to apply unless—

(a) the decree-holder in one of the suits in which the decrees have been made is the judgment-debtor in the other and each party fills the same character in both suits; and

(b) the sums due under the decrees are definite.

(4) The holder of a decree passed against several persons jointly and severally may treat it as a cross-decree in

relation to a decree passed against him singly in favour of one or more of such persons.

Illustrations.

(a) A holds a decree against B for Rs. 1,000. B holds a decree against A for the payment of Rs. 1,000 in case A fails to deliver certain goods at a future day. B cannot treat his decree as a cross-decree under this rule.

(b) A and B, co-plaintiffs, obtain a decree for Rs. 1,000 against C, and C obtains a decree for Rs. 1,000 against B. C cannot treat his decree as a cross-decree under this rule.

(c) A obtains a decree against B for Rs. 1,000. C, who is a trustee for B, obtains a decree on behalf of B against A for Rs. 1,000. B cannot treat C's decree as a cross-decree under this rule.

(d) A, B, C, D and E are jointly and severally liable for Rs. 1,000 under a decree obtained by F. A obtains a decree for Rs. 100 against F singly and applies for execution to the Court in which the joint-decree is being executed. F may treat his joint-decree as a cross-decree under this rule.

19. Where application is made to a Court for the execution of a decree under which two parties are entitled to recover sums of money from each other, then,—

(a) if the two sums are equal, satisfaction for both shall be entered upon the decree; and,

(b) if the two sums are unequal, execution may be taken out only by the party entitled to the larger sum and for so much only as remains after deducting the smaller sum, and satisfaction for the smaller sum shall be entered upon the decree.

20. The provisions contained in rules 18 and 19 shall apply to decrees for sale in enforcement of a mortgage or charge.

21. The Court may, in its discretion, refuse execution at the same time against the person and property of the judgment-debtor.

22. (1) Where an application for execution is made—

(a) more than one year after the date of the decree, or

(b) against the legal representative of a party to the decree,

the Court executing the decree shall issue a notice to the person against whom execution is applied for requiring him to show cause, on a date to be fixed, why the decree should not be executed against him:

Provided that no such notice shall be necessary in consequence of more than one year having elapsed between the date of the decree and the application for execution if the application is made within one year from the date of the last order against the party against whom execution is applied for, made on any previous application for execution, or in consequence of the application being made against the legal representative of the judgment-debtor, if upon a previous application for execution against the same person the Court has ordered execution to issue against him.

(2) Nothing in the foregoing sub-rule shall be deemed to preclude the Court from issuing any process in execution of a decree without issuing the notice thereby prescribed, if, for reasons to be recorded, it considers that the issue of such notice would cause unreasonable delay or would defeat the ends of justice.

23. (1) Where the person to whom notice is issued under the last preceding rule does not appear or does not show cause to the satisfaction of the Court why the decree should not be executed, the Court shall order the decree to be executed.

(2) Where such person offers any objection to the execution of the decree, the Court shall consider such objection and make such order as it thinks fit.

Process for execution.

24. (1) When the preliminary measures (if any) required by the foregoing rules have been taken, the Court shall, unless it sees cause to the contrary, issue its process for the execution of the decree.

(2) Every such process shall bear date the day on which it is issued, and shall be signed by the Judge or such officer as the Court may appoint in this behalf, and shall be sealed with the seal of the Court and delivered to the proper officer to be executed.

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(3) In every such process a day shall be specified on or before which it shall be executed.

25. (1) The officer entrusted with the execution of the process shall endorse thereon the day on, and the manner in, which it was executed, and, if the latest day specified in the process for the return thereof has been exceeded, the reason of the delay, or, if it was not executed, the reason why it was not executed, and shall return the process with such endorsement to the Court.

(2) Where the endorsement is to the effect that such officer is unable to execute the process, the Court shall examine him touching his alleged inability, and may, if it thinks fit, summon and examine witnesses as to such inability and shall record the result.

Stay of execution.

26. (1) The Court to which a decree has been sent for execution shall, upon sufficient cause being shown, stay the execution of such decree for a reasonable time, to enable the judgment-debtor to apply to the Court by which the decree was passed, or to any Court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay execution, or for any other order relating to the decree or execution which might have been made by such Court of first instance or appellate Court if execution had been issued thereby, or if application for execution had been made thereto.

(2) Where the property or person of the judgment-debtor has been seized under an execution, the Court which issued the execution may order the restitution of such property or the discharge of such person pending the result of the application.

(3) Before making an order to stay execution or for the restitution of property or the discharge of the judgment-debtor, the Court may require such security from, or impose conditions upon, judgment-debtor.

27. No order of restitution or discharge under rule 26 shall prevent the property or person of a judgment-debtor from being retaken in execution of the decree sent for execution.

28. Any order of the Court by which the decree was passed, or of such Court of appeal as aforesaid, in relation to the execution of such decree, shall be binding upon the Court to which the decree was sent for execution.

29. Where a suit is pending in any Court against the holder of a decree of such Court, on the part of the person against whom the decree was passed, the Court may, on such terms as to security or otherwise, as it thinks fit, stay execution of the decree until the pending suit has been decided.

Mode of execution.

30. Every decree for the payment of money, including a decree for the payment of money as the alternative to some other relief, may be executed by the detention in the civil prison of the judgment-debtor or by the attachment and sale of his property, or by both.

31. (1) Where the decree is for any specific moveable, or for any share in a specific moveable, it may be executed by the seizure, if practicable, of the moveable or share, and by the delivery thereof to the party to whom it has been adjudged, or to such person as he appoints to receive delivery on his behalf, or by the detention in the civil prison of the judgment-debtor, or by the attachment of his property, or by both.

(2) Where any attachment under sub-rule (1) has remained in force for six months, if the judgment-debtor has not obeyed the decree and the decree-holder has applied to have the attached property sold, such property may be sold, and out of the proceeds the Court may award to the decree-holder, in cases where any amount

has been fixed by the decree to be paid as an alternative to delivery of moveable property, such amount, and, in other cases, such compensation as it thinks fit, and shall pay the balance (if any) to the judgment-debtor on his application.

(3) Where the judgment-debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or where, at the end of six months from the date of the attachment, no application to have the property sold has been made, or, if made, has been refused, the attachment shall cease.

32. (1) Where the party against whom a decree for specific performance, for restitution of conjugal rights, or for an injunction, has been passed; has had an opportunity of obeying the decree and has wilfully failed to obey it, the decree may be enforced by his detention in the civil prison, or by the attachment of his property, or by both.

(2) Where the party against whom a decree for specific performance or for an injunction has been passed is a corporation, the decree may be enforced by the attachment of the property of the corporation or, with the leave of the Court, by the detention in the civil prison of the directors or other principal officers thereof, or by both attachment and detention.

(3) Where any attachment under sub-rule (1) or sub-rule (2) has remained in force for one year, if the judgment-debtor has not obeyed the decree and the decree-holder has applied to have the attached property sold, such property may be sold; and out of the proceeds the Court may award to the decree-holder such compensation as it thinks fit, and shall pay the balance (if any) to the judgment-debtor on his application.

(4) Where the judgment-debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or where, at the end of one year from the date of the attachment, no application to have the property sold has been made, or if made has been refused, the attachment shall cease.

(5) Where a decree for the specific performance of a contract or for an injunction has not been obeyed, the Court may, in lieu of or in addition to all or any of the processes aforesaid, direct that the act required to be done may be done so far as practicable by the decree-holder or some other person appointed by the Court, at the cost of the judgment-debtor, and upon the act being done the expenses incurred may be ascertained in such manner as the Court may direct and may be recovered as if they were included in the decree.

Illustration.

A, a person of little substance, erects a building which renders uninhabitable a family mansion belonging to B. A, in spite of his detention in prison and the attachment of his property, declines to obey a decree obtained against him by B and directing him to remove the building. The Court is of opinion that no sum realizable by the sale of A's property would adequately compensate B for the depreciation in the value of his mansion. B may apply to the Court to remove the building and may recover the cost of such removal from A in the execution proceedings.

33. (1) Notwithstanding anything in rule 32, the Discretion of Court in executing decrees for restitution of conjugal rights.

by detention in prison.

(2) Where the Court has made an order under sub-rule (1), and the decree-holder is the wife, it may order that, in the event of the decree not being obeyed within such period as may be fixed in this behalf, the judgment-debtor shall make to the decree-holder such periodical payments as may be just, and, if it thinks fit, require that the judgment-debtor shall, to its satisfaction, secure to the decree-holder such periodical payments.

(3) The Court may from time to time vary or modify any order made under sub-rule (2) for the periodical payment of money, either by altering the times of payment or by increasing or diminishing the amount, or may temporarily suspend the same as to the whole or any part of the money so ordered to be paid, and again revive the same, either wholly or in part as it may think just.

(4) Any money ordered to be paid under this rule may be recovered as though it were payable under a decree for the payment of money.

*The Code of Civil Procedure, 1908.**(The First Schedule.)**Order XXI.—Execution of Decrees and Orders.)*

34. (1) Where a decree is for the execution of a document or for the endorsement of a negotiable instrument and the judgment-debtor neglects or refuses to obey the decree, the decree-holder may prepare a draft of the document or endorsement in accordance with the terms of the decree and deliver the same to the Court.

(2) The Court shall thereupon cause the draft to be served on the judgment-debtor together with a notice requiring his objections (if any) to be made within such time as the Court fixes in this behalf.

(3) Where the judgment-debtor objects to the draft, his objections shall be stated in writing within such time, and the Court shall make such order approving or altering the draft, as it thinks fit.

(4) The decree-holder shall deliver to the Court a copy of the draft with such alterations (if any) as the Court may have directed upon the proper stamp-paper if a stamp is required by the law for the time being in force; and the Judge or such officer as may be appointed in this behalf shall execute the document so delivered.

(5) The execution of a document or the endorsement of a negotiable instrument under this rule may be in the following form, namely:—

“C. D., Judge of the Court of (or as the case may be), for A. B., in a suit by E. F. against A. B.”,

and shall have the same effect as the execution of the document or the endorsement of the negotiable instrument by the party ordered to execute or endorse the same.

(6) The Court, or such officer as it may appoint in this behalf, shall cause the document to be registered if its registration is required by the law for the time being in force or the decree-holder desires to have it registered, and may make such order as it thinks fit as to the payment of the expenses of the registration.

35. (1) Where a decree is for the delivery of any immovable property, possession thereof shall be delivered to the party to whom it has been adjudged, or to such person as he may appoint to receive delivery on his behalf, and, if necessary, by removing any person bound by the decree who refuses to vacate the property.

(2) Where a decree is for the joint possession of immovable property such possession shall be delivered by affixing a copy of the warrant in some conspicuous place on the property and proclaiming by beat of drum, or other customary mode, at some convenient place, the substance of the decree.

(3) Where possession of any building or enclosure is to be delivered and the person in possession, being bound by the decree, does not afford free access, the Court, through its officers, may, after giving reasonable warning and facility to any woman not appearing in public according to the customs of the country to withdraw, remove or open any lock or bolt or break open any door or do any other act necessary for putting the decree-holder in possession.

36. Where a decree is for the delivery of any immovable property in the occupancy of a tenant or other person entitled to occupy the same and not bound by the decree to relinquish such occupancy, the Court shall order delivery to be made by affixing a copy of the warrant in some conspicuous place on the property, and proclaiming to

the occupant by beat of drum or other customary mode, at some convenient place, the substance of the decree in regard to the property.

Arrest and detention in the civil prison.

37. (1) Notwithstanding anything in these rules, where an application is for the execution of a decree for the payment of money by the arrest and detention in the civil prison of a judgment-debtor who is liable to be arrested in pursuance of the application, the Court may, instead of issuing a warrant for his arrest, issue a notice calling upon him to appear before the Court on a day to be specified in the notice and show cause why he should not be committed to the civil prison.

(2) Where appearance is not made in obedience to the notice, the Court shall, if the decree-holder so requires, issue a warrant for the arrest of the judgment-debtor.

38. Every warrant for the arrest of a judgment-debtor shall direct the officer entrusted with its execution to bring him before the Court with all convenient speed, unless the amount which he has been ordered to pay, together with the interest thereon and the costs (if any) to which he is liable, be sooner paid.

39. (1) No judgment-debtor shall be arrested in execution of a decree unless and until the decree-holder pays into Court such sum as the Judge thinks sufficient for the subsistence of the judgment-debtor from the time of his arrest until he can be brought before the Court.

(2) Where a judgment-debtor is committed to the civil prison in execution of a decree the Court shall fix for his subsistence such monthly allowance as he may be entitled to according to the scales fixed under section 57 or, where no such scales have been fixed, as it considers sufficient with reference to the class to which he belongs.

(3) The monthly allowance fixed by the Court shall be supplied by the party on whose application the judgment-debtor has been arrested by monthly payments in advance before the first day of each month.

(4) The first payment shall be made to the proper officer of the Court for such portion of the current month as remains unexpired before the judgment-debtor is committed to the civil prison, and the subsequent payments (if any) shall be made to the officer in charge of the civil prison.

(5) Sums disbursed by the decree-holder for the subsistence of the judgment-debtor in the civil prison shall be deemed to be costs in the suit.

Provided that the judgment-debtor shall not be detained in the civil prison or arrested on account of any sum so disbursed.

40. (1) Where a judgment-debtor appears before the Court in obedience to a notice issued under rule 37, or is brought before the Court after being arrested in execution of a decree for the payment of money and it appears to the Court that the judgment-debtor is unable from poverty or other sufficient cause to pay the amount of the decree or, if that amount is payable by instalments, the amount of any instalment thereof, the Court may, upon such terms (if any) as it thinks fit, make an order disallowing the application for his arrest and detention, or directing his release, as the case may be.

(2) Before making an order under sub-rule (1), the Court may take into consideration any allegation of the decree-holder touching any of the following matters namely:—

(a) the decree being for a sum for which the judgment-debtor was bound in any fiduciary capacity to account;

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- (b) the transfer, concealment or removal by the judgment-debtor of any part of his property after the date of the institution of the suit in which the decree was passed, or the commission by him after that date of any other act of bad faith in relation to his property, with the object or effect of obstructing or delaying the decree-holder in the execution of the decree;
- (c) any undue preference given by the judgment-debtor to any of his other creditors;
- (d) refusal or neglect on the part of the judgment-debtor to pay the amount of the decree or some part thereof when he has, or since the date of the decree has had, the means of paying it;
- (e) the likelihood of the judgment-debtor absconding or leaving the jurisdiction of the Court with the object or effect of obstructing or delaying the decree-holder in the execution of the decree.

(3) While any of the matters mentioned in sub-rule (2) are being considered, the Court may, in its discretion, order the judgment-debtor to be detained in the civil prison, or leave him in the custody of an officer of the Court, or release him on his furnishing security, to the satisfaction of the Court, for his appearance when required by the Court.

(4) A judgment-debtor released under this rule may be re-arrested.

(5) Where the Court does not make an order under sub-rule (1), it shall cause the judgment-debtor to be arrested if he has not already been arrested and, subject to the other provisions of this Code, commit him to the civil prison.

Attachment of property.

41. Where a decree is for the payment of money the Court may, in its discretion, cause the judgment-debtor to be examined as to his property, and may, if it thinks fit, order that—

- (a) the judgment-debtor, or
(b) in the case of a corporation, any officer thereof, or
(c) any other person,

be orally examined as to whether any or what debts are owing to the judgment-debtor and whether the judgment-debtor has any and what other property or means of satisfying the decree; and the Court may make an order for the attendance and examination of such judgment-debtor, or officer or other person, and for the production of any books or documents.

42. Where a decree directs an inquiry as to rent or mesne profits or any other matter, the property of the judgment-debtor may, before the amount due from him has been ascertained, be attached, as in the case of an ordinary decree for the payment of money.

43. Where the property to be attached is moveable property, other than agricultural produce, in the possession of the judgment-debtor, the attachment shall be made by actual seizure, and the attaching officer shall keep the property in his own custody or in the custody of one of his subordinates, and shall be responsible for the due custody thereof.

Provided that, when the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody is likely to exceed its value, the attaching officer may sell it at once.

44. Where the property to be attached is agricultural produce, the attachment shall be made by affixing a copy of the warrant of attachment,—

- (a) where such produce is a growing crop, on the land on which such crop has grown, or
(b) where such produce has been cut or gathered, on the threshing-floor or place for treading

out grain or the like or fodder-stack on or in which it is deposited,

and another copy on the outer door or on some other conspicuous part of the house in which the judgment-debtor ordinarily resides or, with the leave of the Court, on the outer door or on some other conspicuous part of the house in which he carries on business or personally works for gain or in which he is known to have last resided or carried on business or personally worked for gain; and the produce shall thereupon be deemed to have passed into the possession of the Court.

45. (1) Where agricultural produce is attached, the Court shall make such arrangements for the custody thereof as it may deem sufficient and, for the purpose of enabling the Court to make such arrangements, every application for the attachment of a growing crop shall specify the time at which it is likely to be fit to be cut or gathered.

(2) Subject to such conditions as may be imposed by the Court in this behalf either in the order of attachment or in any subsequent order, the judgment-debtor may tend, cut, gather and store the produce and do any other act necessary for maturing or preserving it; and if the judgment-debtor fails to do all or any of such acts, the decree-holder may, with the permission of the Court and subject to the like conditions, do all or any of them either by himself or by any person appointed by him in this behalf, and the costs incurred by the decree-holder shall be recoverable from the judgment-debtor as if they were included in, or formed part of, the decree.

(3) Agricultural produce attached as a growing crop shall not be deemed to have ceased to be under attachment or to require re-attachment merely because it has been severed from the soil.

(4) Where an order for the attachment of a growing crop has been made at a considerable time before the crop is likely to be fit to be cut or gathered, the Court may suspend the execution of the order for such time as it thinks fit, and may, in its discretion, make a further order prohibiting the removal of the crop pending the execution of the order of attachment.

(5) A growing crop which from its nature does not admit of being stored shall not be attached under this rule at any time less than twenty days before the time at which it is likely to be fit to be cut or gathered.

Attachment of debt, share and other property not in possession of judgment-debtor.

46. (1) In the case of—

- (a) a debt not secured by a negotiable instrument,
(b) a share in the capital of a corporation,
(c) other moveable property not in the possession of the judgment-debtor, except property deposited in, or in the custody of, any Court,

the attachment shall be made by a written order prohibiting,—

- (i) in the case of the debt, the creditor from recovering the debt and the debtor from making payment thereof until the further order of the Court;
- (ii) in the case of the share, the person in whose name the share may be standing from transferring the same or receiving any dividend thereon;
- (iii) in the case of the other moveable property except as aforesaid, the person in possession of the same from giving it over to the judgment-debtor.

(2) A copy of such order shall be affixed on some conspicuous part of the court-house, and another copy shall be sent, in the case of the debt, to the debtor, in the case of the share, to the proper officer of the corporation, and, in the case of the other moveable property (except as aforesaid), to the person in possession of the same.

(3) A debtor prohibited under clause (i) of sub-rule (1) may pay the amount of his debt into Court, and such payment shall discharge him as effectually as payment to the party entitled to receive the same.

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47. Where the property to be attached consists of the share or interest of the judgment-debtor in moveable property belonging to him and another as co-owners, the attachment shall be made by a notice to the judgment-debtor prohibiting him from transferring the share or interest or charging it in any way.

48. (1) Where the property to be attached is the salary or allowances of a public officer or of a servant of a railway company or local authority, the Court, whether the judgment-debtor or the disbursing officer is or is not within the local limits of the Court's jurisdiction, may order that the amount shall, subject to the provisions of section 60, be withheld from such salary or allowances either in one payment or by monthly instalments as the Court may direct; and, upon notice of the order to such officer as the Government may by notification in the Gazette of India or in the local official Gazette, as the case may be, appoint in this behalf, the officer or other person whose duty it is to disburse such salary or allowances shall withhold and remit to the Court the amount due under the order, or the monthly instalments, as the case may be.

(2) Where the attachable proportion of such salary or allowances is already being withheld and remitted to a Court in pursuance of a previous and unsatisfied order of attachment, the officer appointed by the Government in this behalf shall forthwith return the subsequent order to the Court issuing it with a full statement of all the particulars of the existing attachment.

(3) Every order made under this rule, unless it is returned in accordance with the provisions of sub-rule (2), shall, without further notice or other process, bind the Government or the railway company or local authority, as the case may be, while the judgment-debtor is within the local limits to which this Code for the time being extends and while he is beyond those limits if he is in receipt of any salary or allowances payable out of His Majesty's Indian revenues or the funds of a railway company carrying on business in any part of British India or local authority in British India; and the Government or the railway company or local authority, as the case may be, shall be liable for any sum paid in contravention of this rule.

49. (1) Save as otherwise provided by this rule, property belonging to a partnership shall not be attached or sold in execution of a decree other than a decree passed against the firm or against the partners in the firm as such.

(2) The Court may, on the application of the holder of a decree against a partner, make an order charging the interest of such partner in the partnership property and profits with payment of the amount due under the decree, and may, by the same or a subsequent order, appoint a receiver of the share of such partner in the profits (whether already declared or accruing) and of any other money which may be coming to him in respect of the partnership, and direct accounts and inquiries and make an order for the sale of such interest or other orders as might have been directed or made if a charge had been made in favour of the decree-holder by such partner, or as the circumstances of the case may require.

(3) The other partner or partners shall be at liberty at any time to redeem the interest charged or, in the case of a sale being directed, to purchase the same.

(4) Every application for an order under sub-rule (2) shall be served on the judgment-debtor and on his partners or such of them as are within British India.

(5) Every application made by any partner of the judgment-debtor under sub-rule (3) shall be served on the decree-holder and on the judgment-debtor, and on such of the other partners as do not join in the application and as are within British India.

(6) Service under sub-rule (4) or sub-rule (5) shall be deemed to be service on all the partners, and all orders made on such applications shall be similarly served.

Execution of decree against firm.

50. (1) Where a decree has been passed against a firm, execution may be granted—

- (a) against any property of the partnership;
- (b) against any person who has appeared in his own name under rule 6 or rule 7 of Order XXX or who has admitted on the pleadings that he is, or who has been adjudged to be, a partner;
- (c) against any person who has been individually served as a partner with a summons and has failed to appear:

Provided that nothing in this sub-rule shall be deemed to limit or otherwise affect the provisions of section 247 of the Indian Contract Act, 1872.

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(2) Where the decree-holder claims to be entitled to cause the decree to be executed against any person other than such a person as is referred to in sub-rule (1), clauses (b) and (c), as being a partner in the firm, he may apply to the Court which passed the decree for leave, and where the liability is not disputed, such Court may grant such leave, or, where such liability is disputed, may order that the liability of such person be tried and determined in any manner in which any issue in a suit may be tried and determined.

(3) Where the liability of any person has been tried and determined under sub-rule (2), the order made thereon shall have the same force and be subject to the same conditions as to appeal or otherwise as if it were a decree.

(4) Save as against any property of the partnership, a decree against a firm shall not release, render liable or otherwise affect any partner therein unless he has been served with a summons to appear and answer.

51. Where the property is a negotiable instrument not deposited in a Court, nor in the custody of a public officer, the attachment shall be made by actual seizure, and the instrument shall be brought into Court and held subject to further orders of the Court.

52. Where the property to be attached is in the custody of any Court or public officer, the attachment shall be made by a notice to such Court or officer, requesting that such property, and any interest or dividend becoming payable thereon, may be held subject to the further orders of the Court from which the notice is issued:

Provided that, where such property is in the custody of a Court, any question of title or priority arising between the decree-holder and any other person, not being the judgment-debtor, claiming to be interested in such property by virtue of any assignment, attachment or otherwise, shall be determined by such Court.

53. (1) Where the property to be attached is a decree, either for the payment of money or for sale in enforcement of a mortgage or charge, the attachment shall be made,—

- (a) if the decrees were passed by the same Court, then by order of such Court, and,
- (b) if the decree sought to be attached was passed by another Court, then by the issue to such other Court of a notice by the Court which passed the decree sought to be executed, requesting such other Court to stay the execution of its decree unless and until—
 - (i) the Court which passed the decree sought to be executed cancels the notice, or
 - (ii) the holder of the decree sought to be executed or his judgment-debtor applies to the Court receiving such notice to execute its own decree.

(2) Where a Court makes an order under clause (a) of sub-rule (1), or receives an application under sub-head (ii) of clause (b) of the said sub-rule, it shall, on the application of the creditor who has attached the decree or his judgment-debtor, proceed to execute the attached decree and apply the net proceeds in satisfaction of the decree sought to be executed.